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UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

13 WILLIAM H. GRADIE, MILTON
14 HARPER, RONNIE STEVENSON, and
15 JONATHAN MITCHELL, individuals,
on behalf of themselves, and on behalf
of all persons similarly situated,

16 Plaintiffs,

17 vs.

18 C.R. ENGLAND, INC., a Corporation;
19 and Does 1 through 100, Inclusive,

20 Defendant.

CASE NO: 2:16-cv-00768-DN

**FIRST AMENDED CLASS ACTION
COMPLAINT**

1. UNFAIR COMPETITION;
2. FAILURE TO PAY MINIMUM WAGES;
3. FAILURE TO PAY OVERTIME WAGES;
4. FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS;
5. FAILURE TO MAINTAIN COPIES OF ACCURATE ITEMIZED WAGE STATEMENTS;
6. FAILURE TO REIMBURSE FOR BUSINESS EXPENSES;
7. UNLAWFUL DEDUCTIONS;
8. FAILURE TO PROVIDE MEAL PERIODS;
9. FAILURE TO PROVIDE REST PERIODS;

10. FAILURE TO TIMELY PAY WAGES DUE AT TERMINATION OF EMPLOYMENT;
11. FAILURE TO TIMELY PAY ALL WAGES DURING EMPLOYMENT;
12. MISREPRESENTATION;
13. USURY; and
14. CALIFORNIA LABOR CODE PRIVATE ATTORNEYS GENERAL ACT (PAGA)

DEMAND FOR A JURY TRIAL

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1 Plaintiffs William H. Gradie, Milton Harper, Ronnie Stevenson, and Jonathan
2 Mitchell (“PLAINTIFFS”), individuals, on behalf of themselves and all other
3 similarly situated current and former employees, allege upon information and belief,
4 except for their own acts and knowledge, which are based on personal knowledge,
5 the following:

6 **THE PARTIES**

7 1. C.R. England, Inc. (“C.R. ENGLAND” or “DEFENDANT”) is a
8 commercial motor carrier based in Salt Lake City, Utah that specializes in
9 transporting freight for its customers from pick-up point to ultimate destination
10 throughout the country. To provide this service, C.R. ENGLAND employs truck
11 drivers who have a commercial driver’s license (“CDL”).

12 2. C.R. ENGLAND is a corporation and at all relevant times mentioned
13 herein conducted and continues to conduct substantial and regular business
14 throughout the State of California.

15 3. C.R. ENGLAND also operates the Premier Truck Driving School
16 (“Premier”), in Fontana California and other locations, which provides students with
17 the necessary education and skills required to obtain a CDL. An individual must
18 have a valid CDL to operate a commercial motor vehicle for C.R. ENGLAND or
19 any other motor carrier.

20 4. Plaintiff WILLIAM H. GRADIE attended Premier in August 2015. He
21 financed his Premier tuition through a loan and entered into an agreement providing
22 that he had no obligation to make payments on the loan during the first 12 months
23 after he obtained his CDL as long as he was employed by C.R. ENGLAND during
24 that period and that C.R. ENGLAND would assume his repayment obligation
25 following the completion of his 12-month term of employment. After Plaintiff
26 Gradie obtained his CDL in August 2015, he was employed as a Truck Driver
27 employee by C.R. ENGLAND from August 20, 2015 through September 2, 2015.
28 Because Plaintiff Gradie did not work for C.R. ENGLAND for the agreed upon 12

1 months after obtaining his CDL, the employment contract he executed with C.R.
2 ENGLAND states he is responsible for liquidated damages of \$2500, paying the full
3 amount of the loan, and paying all accrued interest.

4 5. Plaintiff MILTON HARPER attended Premier in November 2012. He
5 financed his Premier tuition through a loan from a C.R. ENGLAND affiliate, and
6 entered into an agreement providing that he had no obligation to make payments on
7 the loan during the first six months after he obtained his CDL as long as he was
8 employed by C.R. ENGLAND during that period and that C.R. ENGLAND would
9 assume his repayment obligation following the completion of his six-month term of
10 employment. After Plaintiff Harper obtained his CDL in early December 2012, he
11 was employed as a Truck Driver by C.R ENGLAND from December 6, 2012
12 through February 20, 2017.

13 6. Plaintiff RONNIE STEVENSON attended Premier in September 2013.
14 He financed his Premier tuition through a loan from a C.R. ENGLAND affiliate and
15 entered into an agreement providing that he had no obligation to make payments on
16 the loan during the first nine months after he obtained his CDL as long as he was
17 employed by C.R. ENGLAND during that period and that C.R. ENGLAD would
18 assume his repayment obligation following the completion of his nine-month term
19 of employment. After he obtained his CDL from Premier, Plaintiff Stevenson
20 worked for DEFENDANT in California as a Truck Driver employee from October
21 2, 2013 through October 2014 and again from March 2015 through June 13, 2016.

22 7. Plaintiff JONATHAN MITCHELL attended Premier in June 2013. He
23 financed his Premier tuition through a loan from a C.R.ENGLAND affiliate and
24 entered into an agreement providing that he had no obligation to make payments on
25 the loan during the first nine months after he obtained his CDL as long as he was
26 employed by C.R. ENGLAND during that period and that C.R. ENGLAND would
27 assume his repayment obligation following the completion of his nine-month term
28 of employment. After he obtained his CDL from Premier, Plaintiff Mitchell worked

1 for DEFENDANT in California from July 11, 2013 through September 1, 2017 as a
2 Truck Driver employee.

3 **JURISDICTION AND VENUE**

4 8. Federal subject matter jurisdiction is proper in this case as a result of
5 the Class Action Fairness Act of 2005, (“CAFA”), 28 U.S.C. §§ 1332(d)(2) and
6 1453(b).

7 9. Venue is proper in the District of Utah for several reasons, including,
8 but not limited to, because DEFENDANT’S principle place of business is located in
9 Salt Lake City, Utah.

10 **CLASS ACTION LAWSUIT**

11 10. This action is brought on behalf of PLAINTIFFS and all others
12 similarly situated as a class action pursuant to Federal Rules of Civil Procedure,
13 Rule 23. In particular, PLAINTIFFS bring this class action on behalf of themselves
14 and a California class consisting of all truck drivers employed by C.R. ENGLAND
15 in California at any time during the period beginning on March 12, 2014¹ and
16 continuing through the present (the “CLASS” or “CALIFORNIA CLASS”). The
17 CLASS thus includes employee truck drivers of every kind who worked for
18 DEFENDANT in the State of California during the class period, including, but not
19 limited to, drivers, truck drivers, truck workers, industrial truck workers, industrial
20 truck drivers, Phase I drivers, Phase II drivers, driver trainees, student drivers,
21 and/or any other similar job designation or description that involved driving a truck
22 for Defendant from March 12, 2014 through the present (“Truck Drivers”). The
23 CLASS further includes all CLASS members who enrolled in DEFENDANT’S

24 _____
25 ¹ A final class action judgment on behalf of a settlement class consisting of Truck
26 Drivers employed by C.R. ENGLAND in the state of California was entered on November
27 12, 2014, in the matter of *Jasper et al. v. C.R. England, Inc.* United States District Court for
28 the Central District of California, Case No 08-CV-05266. Pursuant to the final judgment
in the *Jasper* case, all wage and hour claims of the CLASS that accrued prior to March 12,
2014, are released as a result of the final judgment in that case and therefore barred.

1 Training Program (which phrase is defined below).

2 **DOE DEFENDANTS**

3 11. The true names and capacities, whether individual, corporate, associate
4 or otherwise of the Defendants sued herein as DOES 1 through 100, inclusive, are
5 presently unknown to PLAINTIFFS who therefore sue these Defendants by such
6 fictitious names. PLAINTIFFS are informed and believe, and based thereon, allege
7 that each of the Defendants designated herein is legally responsible in some manner
8 for the unlawful acts referred to herein. PLAINTIFFS will seek leave of Court to
9 amend this Complaint to reflect the true names and capacities of the Defendants
10 when they have been ascertained and become known.

11 **ALTER EGO/JOINT EMPLOYER ALLEGATIONS**

12 12. At all times mentioned herein, DEFENDANT and DOES 1 through
13 100 were acting as an individual, corporate, affiliate, employer, employee,
14 supervisor, agency, associate aider and abettor and/or alter ego of each remaining
15 defendant, and were acting with permission and consent of each other, and within
16 the course and scope of said agency and/or employment and personally participated
17 in the conduct alleged herein on behalf of the defendants with respect to the conduct
18 alleged herein. Consequently, the acts of each defendant are legally attributable to
19 the other defendants, and all defendants are jointly and severally liable to
20 PLAINTIFFS and the other members of the CALIFORNIA CLASS, for the loss
21 sustained as a proximate result of the conduct of the Defendants' agents, servants
22 and/or employees. On information and belief, DEFENDANT and DOES 1 through
23 100, and each of them, acted as joint employers, alter egos, and an integrated
24 enterprise, and jointly exercised control over the employment practices alleged
25 herein. On information and belief, DEFENDANT and DOES 1 through 100, by and
26 through their officers, directors or managing agents, ratified, authorized and
27 approved, expressly or impliedly, all of the conduct alleged hereinafter.

THE CONDUCT

13. As Truck Drivers, PLAINTIFFS' work requires the performance of manual labor consisting of driving DEFENDANT's trucks and transporting goods. In performing these duties, PLAINTIFFS do not utilize any independent discretion, judgment, or management decisions with respect to matters of significance. To the contrary, the work of PLAINTIFFS as Truck Drivers is to provide on a daily basis the transportation of goods in accordance with the management decisions and business policies established by DEFENDANT.

14. As employee Truck Drivers who worked for DEFENDANT in California, PLAINTIFFS and the other CALIFORNIA CLASS members are entitled to various protections afforded by California law, including, but not limited to, to being paid all minimum, regular, and overtime wages, receiving accurate wage statements, being paid on a timely basis, not having any unlawful deductions taken from their wages, being reimbursed for all necessary business expenses, being paid all wages owed upon termination of employment, being paid all wages timely during their employment, being provided meal and rest periods, etc.

15. The work required to be performed by PLAINTIFFS and the other CALIFORNIA CLASS members consisted of driving DEFENDANT's trucks and transporting goods in accordance with DEFENDANT's policies and practices. As a result of this work, PLAINTIFFS and the other CALIFORNIA CLASS members are involved in providing day to day routine transportation of goods as specified by DEFENDANT and this work is executed by the performance of manual labor within a defined skill set.

16. PLAINTIFFS and the other CALIFORNIA CLASS members employed by DEFENDANT performed these manual tasks but are not paid the minimum, regular, and overtime wages to which they are entitled under California law because of DEFENDANT's systematic policies and practices of failing to correctly record all time worked. DEFENDANT thus failed to correctly pay

1 minimum wages to PLAINTIFFS and the other CALIFORNIA CLASS members in
2 accordance with California law, and thereby systematically underpaid minimum,
3 regular and/or overtime wage compensation to PLAINTIFFS and the other
4 CALIFORNIA CLASS members for their time worked.

5 17. By way of example only, DEFENDANT failed to pay PLAINTIFFS
6 and the other CALIFORNIA CLASS members the correct amount of compensation
7 because DEFENDANT established an illegal pay practice of paying PLAINTIFFS
8 and the other CALIFORNIA CLASS members on a piece-rate basis which failed to
9 compensate PLAINTIFFS and other CALIFORNIA CLASS members all their non-
10 productive time (i.e., all time spent on non-driving activities).

11 18. PLAINTIFFS and the other CALIFORNIA CLASS members also did
12 not receive paid rest breaks as required by California law.

13 19. DEFENDANT further failed to provide PLAINTIFFS and the other
14 CALIFORNIA CLASS members with the legally required thirty (30) minute
15 uninterrupted meal periods prior to the end of their fifth (5th) hour of work and/or a
16 second uninterrupted thirty (30) minute meal break prior to the end of their tenth
17 (10th) hour of work.

18 20. Individuals in these Truck Driver positions are and were employees
19 who are entitled to minimum wages and prompt payment of amounts that the
20 employer owes an employee each pay period as well as when the employee quits or
21 is terminated, and other compensation and working conditions that are prescribed by
22 law.

23 21. Industrial Welfare Commission Wage Order No. 9-2001 provides:
24 “Every employer shall pay to each employee, on the established payday for the
25 period involved, not less than the applicable minimum wage for all hours worked in
26 the payroll period, whether the remuneration is measured by time, piece,
27 commission, or otherwise.” “Hours worked” is defined in the Wage Order as “the
28 time during which an employee is subject to the control of an employer, and

1 includes all the time the employee is suffered or permitted to work, whether or not
2 required to do so.” Here, PLAINTIFFS and CALIFORNIA CLASS members are
3 entitled to separate hourly compensation for all their time spent performing other
4 non-driving tasks directed by DEFENDANT during their work shifts.

5 22. In addition, DEFENDANT has failed to pay all regular and overtime
6 compensation due to PLAINTIFFS and the CALIFORNIA CLASS members in
7 violation of Wage Order No. 9-2001 and applicable provisions of the California
8 Labor Code.

9 23. DEFENDANT fails to provide all the legally required unpaid, off-duty
10 meal periods and all the legally required paid, off-duty rest periods to PLAINTIFFS
11 and the other CALIFORNIA CLASS members as required by Wage Order No. 9-
12 2001 and applicable provisions of the California Labor Code. DEFENDANT does
13 not have a policy or practice which provides or records all the legally required
14 unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods
15 to PLAINTIFFS and the other CALIFORNIA CLASS members. As a result,
16 DEFENDANT’s failure to provide PLAINTIFFS and the CALIFORNIA CLASS
17 members with all the legally required off-duty, unpaid meal periods and all the
18 legally required off-duty, paid rest periods is evidenced by DEFENDANT’s
19 business records.

20 24. DEFENDANT also fails to maintain copies of accurate itemized wage
21 statements and/or provide PLAINTIFFS and the other members of the
22 CALIFORNIA CLASS with complete and accurate wage statements which fail to
23 show, among other things, the correct minimum wages for all their time worked,
24 including, allocation of lawfully required, paid, and off-duty rest periods. Cal.
25 Labor Code § 226 provides that every employer shall furnish each of his or her
26 employees with an accurate itemized wage statement in writing showing, among
27 other things, gross wages earned and all applicable hourly rates in effect during the
28 pay period and the corresponding amount of time worked at each hourly rate along

1 with other required information. As a result, DEFENDANT provides PLAINTIFFS
2 and the other members of the CALIFORNIA CLASS with wage statements which
3 violate California Labor Code § 226. DEFENDANT also provides PLAINTIFFS
4 and the other members of the CALIFORNIA CLASS with wage statements which
5 run afoul of California Labor Code § 226.2 and other wage statement requirements.

6 25. PLAINTIFFS further allege on information and belief that
7 DEFENDANT has failed to maintain copies of accurate itemized wage statements
8 for employees as required by California law, and from time to time has engaged in
9 unlawful practices that include charging employees costs for copies of personnel
10 records that exceed the costs of reproduction and therefore violate California law,
11 including various provisions of the California Labor Code.

12 26. DEFENDANT also advertised throughout California and the nation in
13 order to induce applicants desiring to become truck drivers for it to relocate to
14 Fontana, California (and other locations) in order to enroll in its for profit, in house
15 “Premier Truck Driving School” (the “Training Program”). DEFENDANT induced
16 these applicants by representing that if they would travel to Fontana, California, and
17 enroll in the Training Program by attending Premier they would be provided with a
18 “guaranteed job” as a well-paid, full time truck driver. DEFENDANT charged
19 thousands of dollars for the 17 day Training Program. The Training Program was a
20 necessary training for the job of the CALIFORNIA CLASS members.

21 27. After hire, DEFENDANT required that CALIFORNIA CLASS
22 members enter into an agreement whereby they pay DEFENDANT an illegal
23 penalty of \$2,500 for terminating employment with DEFENDANT. The penalty
24 would be deducted from compensation of the CALIFORNIA CLASS members that
25 was earned and unpaid at the time of employment termination. Additionally,
26 DEFENDANT required the CALIFORNIA CLASS members to agree to pay back
27 the Training Program expenses via a Promissory Note that failed to state the
28 applicable annual percentage rate and finance charge applicable to the balance of the

1 borrowed funds as part of the Special Regulation Z Disclosure Box contained in the
2 Promissory Note. The Promissory Note actually charged 18% interest, compounded
3 daily, which is far in excess of the California maximum rate. Upon information and
4 belief, the Promissory Note further allowed DEFENDANT to make self-help wage
5 deductions from any amounts owed to a CALIFORNIA CLASS member by
6 DEFENDANT, in violation of various California debt collection, consumer
7 protection statutes, and employment laws. Finally, the Promissory Note falsely
8 indicated that the debt would be satisfied if the CALIFORNIA CLASS member was
9 able to “complete the term of [his or her] employment with C.R. England...”

10 28. In this action, PLAINTIFFS, on behalf of themselves and the other
11 CALIFORNIA CLASS members, also seek to recover all the compensation and
12 business expenses that DEFENDANT is required by law to provide, but fails to
13 provide, to PLAINTIFFS and all other CALIFORNIA CLASS members.
14 PLAINTIFFS also seek penalties and all other relief available to them and other
15 CALIFORNIA CLASS members under California or federal law. Finally,
16 PLAINTIFFS on behalf of themselves and the other CALIFORNIA CLASS
17 members seek declaratory relief finding that the employment practices and policies
18 of the DEFENDANT violated California law and injunctive relief to enjoin the
19 DEFENDANT from continuing to engage in the unlawful employment and other
20 business practices described herein.

21 29. In performing the conduct herein alleged, DEFENDANT’s wrongful
22 conduct and violations of law as herein alleged demean and wrongfully deprive
23 PLAINTIFFS and the other members of the CALIFORNIA CLASS of money,
24 wages, career opportunities, and other sums to which they are lawfully entitled.
25 DEFENDANT engages in such wrongful conduct by failing to have adequate
26 employment policies and maintaining adequate employment practices consistent
27 with such policies and the applicable law. DEFENDANT’s wrongful conduct as
28 herein alleged caused the money belonging to PLAINTIFFS and the other members

1 of the CALIFORNIA CLASS to be kept by DEFENDANT and thereby converted
2 by DEFENDANT for DEFENDANT's own use.

3 30. Accordingly, DEFENDANT committed acts of unfair competition in
4 violation of the California Unfair Competition Law (i.e., California Business &
5 Professions Code §§ 17200, *et seq.*) by engaging in company-wide policies that
6 violated the California Labor Code and other regulations promulgated thereunder as
7 herein alleged, including under Wage Order No. 9-2001.

8 **A. C.R. ENGLAND'S TRAINING AND EDUCATION PROGRAM**

9 31. C.R. ENGLAND advertised throughout California and the nation to
10 induce applicants to relocate to Fontana, California (and other locations) to obtain
11 their CDL. Specifically, C.R. England induced PLAINTIFFS and other
12 CALIFORNIA CLASS members to enroll in its for-profit, in-house Premier
13 Trucking Driving School (i.e., the Training Program). C.R. ENGLAND induced
14 applicants by representing that if they would travel to Fontana CA and enroll in the
15 Training Program at Premier they would be provided with a "guaranteed job" as a
16 well-paid, full-time truck driver once they obtained their CDL.

17 32. However, material facts regarding the nature of the work, which C.R.
18 ENGLAND misrepresented and deliberately failed to disclose, were among other
19 things, the following:

- 20 a. The amount which C.R. ENGLAND charged for its 17-day Training
21 Program was far above its actual cost for the program.
- 22 b. The business objective of the Training Program was not to prepare
23 drivers for long-term employment with C.R. ENGLAND. Instead, the
24 Training Program was designed and run as an independent profit-
25 making enterprise. C.R. ENGLAND's profit in the transaction was
26 generated not by its continued employment of its own trainees, but
27 rather by the volume of aspiring drivers which it could charge for its
28 Training Program.

- 1 c. C.R. ENGLAND did not intend to treat the applicant's job as
2 "guaranteed" or even terminable only for good cause. In fact,
3 notwithstanding its representations and the drivers' substantial financial
4 investment in their employment, C.R. ENGLAND always intended to,
5 and did, treat the drivers' employment as terminable at-will.
- 6 d. In fact, C.R. ENGLAND's for-profit Training Program churned out far
7 more student drivers than it could ever actually employ. As a result,
8 C.R. ENGLAND had to actively find ways to cull the ranks of its
9 drivers and to replace them with more profitable paying applicants.
- 10 e. As a result, far from having a "guaranteed job," virtually all of the
11 drivers who pay to complete the Training Program are destined to have
12 their employment terminated within less than a year.
- 13 f. In anticipation of this treatment, upon arriving at Fontana, drivers were
14 required to execute a series of unconscionable legal documents, which
15 they had little or no opportunity to read or comprehend. These
16 included:
- 17 i. An illegal agreement to work as an indentured worker who
18 would be obligated to pay C.R. ENGLAND a penalty or
19 "liquidated damages" of approximately \$2,500 as the price of
20 leaving employment with C.R. ENGLAND.
- 21 ii. An illegal agreement to refrain from working for any competitor
22 of C.R. ENGLAND for a period of at least nine months.
- 23 iii. An illegal agreement allowing C.R. ENGLAND to accelerate the
24 payment of principal owed for the Training Program and to
25 assess penalties, wage deductions, and usurious interest
26 payments in the event the driver's employment is terminated.
- 27 g. C.R. ENGLAND further failed to disclose that drivers would be
28 expected to work without legally required off-duty meal breaks and

1 paid rest breaks.

- 2 h. C.R. ENGLAND further failed to disclose that drivers would be
3 required to work numerous hours without any compensation or for
4 compensation below the applicable minimum wage rate.

5 33. PLAINTIFFS and other members of the Class were employed pursuant
6 to a “C.R. England, Inc. Driver Education and Employment Contract,” which was
7 presented to newly hired employees in a substantially similar form. A copy of the
8 Driver Education and Employment Contract executed by Plaintiff Gradie is attached
9 as Exhibit A.

10 34. Under the stated terms of this contract, C.R. ENGLAND claimed that it
11 would provide a guaranteed job. PLAINTIFFS and other CALIFORNIA CLASS
12 members, however, were effectively required to “buy” this job opportunity from
13 C.R. ENGLAND by agreeing to the following illegal and unconscionable terms:

- 14 a. A requirement to pay C.R. ENGLAND approximately \$5,175 or some
15 other sum, which C.R. ENGLAND represented as the cost of its in-
16 house job training program (which C.R. ENGLAND refers to as the
17 “Premier Truck Driving School”).
- 18 b. A requirement to work exclusively for C.R. ENGLAND for at least
19 nine or twelve months, at the compensation rate and terms set by C.R.
20 ENGLAND.
- 21 c. A requirement to pay a penalty or “liquidated damages” of \$2,500 to
22 C.R. ENGLAND in the event employment was terminated by C.R.
23 ENGLAND, or if the employee resigned his or her employment prior to
24 the nine or twelve-month period.
- 25 d. A requirement that C.R. ENGLAND could deduct these “liquidated
26 damages” from any of the employee’s wages which were earned but
27 unpaid at the time of the termination of his employment.
- 28 e. A requirement to waive any right to pursue certain protections of

California employment law.

B. C.R. ENGLAND’S PROMISSORY NOTE AND USURIUS INTEREST CHARGES

35. As a further part of C.R. ENGLAND’s Training Program, C.R. ENGLAND required applicants to execute a Promissory Note in favor of “CR England dba Premier Truck Driving School,” in substantially the form as is attached hereto as Exhibit B. This Promissory Note, included the following misleading, illegal, and unconscionable terms:

- a. The Promissory Note failed to include the applicable annual percentage rate and finance charge applicable to the balance of the borrowed funds as part of the Special Regulation Z Disclosures Box contained in the Promissory Note.
- b. The actual rate of interest was to be 18%, compounded daily, which is far in excess of the maximum rate permitted by California law.
- c. The Promissory Note purported to allow C.R. ENGLAND to make self-help deduction for repayment of the Promissory Note from any amounts owed to PLAINTIFFS and other CALIFORNIA CLASS members by C.R. ENGLAND, in violation of applicable debt collection, consumer protection statutes, and employment laws.
- d. The Promissory Note falsely represented that “if I complete the term of my employment with C.R. England, C.R. England will satisfy this note in its entirety on my behalf.”

36. The California Constitution, Article XV, Section 1, and California Civil Code §§ 1912 *et seq.*, set the maximum rate of interest at 10% per annum for loans of money used primarily for personal, family, or household purposes, such as loans used to pay for educational and vocational training expenses.

37. Notwithstanding these provisions of law, C.R. ENGLAND’s consistent policy and practice was to require interest of 18% or more on the outstanding

1 balances of the Promissory Notes which members of the CLASS were required to
2 execute as a condition of their training and employment.

3 38. As a result, C.R. ENGLAND has consistently violated the provisions of
4 the California usury law and affected members of the CLASS are thereby entitled to
5 seek all authorized remedies, including voiding of the Promissory Notes, forfeiture
6 of all interest charged or purportedly due pursuant to these usurious Promissory
7 Notes, an award of treble damages, and all derivative statutory and civil penalties
8 thereby triggered and authorized by law, including, but not limited to, under Labor
9 Code §§ 201, 203, 204, 204.2, 210, 218, 221, 222.5, 223, 225.5, 226(e), 226.3, 256,
10 432.5, 450, 558, 1197.1, 1198, and 2699 *et seq.*

11 **C. C.R. ENGLAND’S FAILURE TO PAY FOR ALL HOURS WORKED**
12 **AT APPLICABLE MINIMUM WAGE, STRAIGHT TIME WAGE,**
13 **AND/OR OVERTIME RATES**

14 39. C.R. ENGLAND fails to pay PLAINTIFFS and the CLASS the correct
15 amount of compensation because C.R. ENGLAND established an illegal pay
16 practice of paying compensation on a piece-rate basis when delivering loads at the
17 locations assigned by C.R. ENGLAND and as such fails to pay minimum wages,
18 regular wages, and/or overtime wages for all compensable time worked.

19 40. C.R. ENGLAND required PLAINTIFFS and the other CLASS
20 members to perform numerous forms of work without separate hourly
21 compensation, including, but not limited to, the following:

- 22 a. Completing C.R. ENGLAND’s in-house driver training program;
- 23 b. Completing C.R. ENGLAND’s orientation and new-hire paperwork;
- 24 c. Completing C.R. ENGLAND’s road driving evaluation;
- 25 d. Completing the mandatory DOT physical examination, drug test, and
- 26 other requirements for beginning employment with C.R. ENGLAND in
- 27 compliance with the Employment Contract;
- 28 e. Completing pre and post trip inspections;

- f. Completing fueling, maintenance, and cleaning of vehicles;
- g. Completing 10 min. paid rest periods mandated and allowed by California law;
- h. Completing other non-driving tasks directed by C.R. ENGLAND during their work shifts.

41. During the relevant time period, PLAINTIFFS and the other members of the CLASS have been paid less for time worked than they are entitled to, constituting a failure to pay all earned wages.

42. C.R. ENGLAND maintains a uniform wage practice of paying the PLAINTIFFS and the other members of the CLASS without regard to the correct amount of time they worked, including time spent engaging in non-driving related tasks. As set forth herein, C.R. ENGLAND's uniform policy and practice is to unlawfully and intentionally deny timely payment of regular, straight time, and overtime wages due to PLAINTIFFS and the other members of the CLASS.

43. In committing these violations of the California Labor Code and Wage Order No. 9-2001, C.R. ENGLAND inaccurately calculates the correct time worked and consequently underpays the actual time worked by PLAINTIFFS and other members of the CLASS. C.R. ENGLAND acts in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the California Labor Code, the Industrial Welfare Commission Wage Order's requirements, and all other applicable laws and regulations.

44. As a direct result of C.R. ENGLAND's unlawful wage practices as alleged herein, PLAINTIFFS and the other members of the CLASS do not receive the correct regular wages, straight time wages, and/or overtime compensation for all of their time worked for C.R. ENGLAND.

**D. C.R. ENGLAND'S PRACTICES REGARDING EXPENSE
REIMBURSEMENT AND DEDUCTIONS FROM WAGES**

45. In this action, PLAINTIFFS, on behalf of themselves and the CLASS,

1 seek to recover all the compensation and business expenses that C.R. ENGLAND is
2 required by law to provide, but fails to provide, to PLAINTIFFS and all other
3 CLASS members. PLAINTIFFS also seek penalties and all other relief available to
4 them and other CLASS members under California or federal law. Finally,
5 PLAINTIFFS on behalf of themselves and the other CLASS members seek
6 declaratory relief finding that the employment practices and policies of C.R.
7 ENGLAND violated California law and injunctive relief to enjoin C.R. ENGLAND
8 from continuing to engage in such employment practices.

9 46. Pursuant to California Labor Code §§ 2802 and 2804 *et seq.*, and Wage
10 Order No. 9-2001, an employer must indemnify his or her employee for all
11 necessary expenditures or losses incurred by the employee in direct consequence of
12 the discharge of his or her duties.

13 47. C.R. ENGLAND violated these requirements by requiring
14 PLAINTIFFS and other CLASS members to make expenditures required for work
15 and failing to indemnify and reimburse PLAINTIFFS and the other members of the
16 CLASS as required by law. PLAINTIFFS have thus been damaged in an amount
17 according to proof at time of trial.

18 48. PLAINTIFFS and the other members of the Class seek recovery of all
19 required business expenses that they paid, including, but not limited to any expenses
20 incurred in relation to C.R. ENGLAND's Training Program, for which they were
21 not properly reimbursed, for cell phone expenses, etc.

22 49. Pursuant to California Labor Code §§ 221, 223, 451(a), 2802 and 2804,
23 and Wage Order No. 9-2001, an employer may not do any of following: deduct
24 sums from the wages of an employee; require the employee to patronize the
25 employer's services; require employees to pay for amounts incurred in the course
26 and scope of his or her employment; or bear the employer's normal costs and
27 expenses of doing business.

28 50. C.R. ENGLAND violated these requirements by requiring

1 PLAINTIFFS and other CLASS members to pay out of their own pockets for C.R.
2 ENGLAND's own mandated Training Program; requiring PLAINTIFFS and other
3 CLASS members to patronize C.R. ENGLAND's own for-profit training and
4 finance programs; requiring PLAINTIFFS and other CLASS members to incur wage
5 deductions for training costs, "liquidated damages," usurious interest, and other
6 sums supposedly owed to C.R. ENGLAND or its affiliate(s).

7 51. PLAINTIFFS and the CLASS seek recovery of damages for all wages
8 that were improperly deducted by C.R. ENGLAND, including amounts deducted by
9 C.R. ENGLAND in relation to C.R. ENGLAND's Training Program, the costs of
10 the required drug test, physical examination, the cost of obtaining the Commercial
11 Driver's License ("CDL"), and other costs which were reasonably required in order
12 to comply with the terms of the Driver Education and Employment Contract or any
13 other aspect of the Training Program.

14 **E. C.R. ENGLAND'S PRACTICES REGARDING MEAL AND REST**
15 **PERIODS**

16 52. During PLAINTIFFS' and the other CLASS members' employment,
17 C.R. ENGLAND did not maintain any policy to provide PLAINTIFFS or the other
18 CLASS members with at least one 30-minute, uninterrupted, off-duty meal break for
19 each continuous work period of at least five hours. This includes not permitting
20 PLAINTIFFS and the other CLASS members to take a first uninterrupted meal
21 period of 30-minutes by the end of their fifth hour of work and/or a second
22 uninterrupted meal period of 30-minutes by the end of their tenth hour of work. Nor
23 did C.R. ENGLAND maintain any policy that authorized or permitted PLAINTIFFS
24 and the other CLASS members to take off-duty rest breaks of at least 10-minutes for
25 each four hours of work, or major fraction thereof.

26 53. C.R. ENGLAND fails to provide all the legally required unpaid, off-
27 duty meal periods and all the legally required paid, off-duty rest periods to
28 PLAINTIFFS and the other CLASS members as required by Wage Order No. 9-

1 2001 and applicable provisions of the California Labor Code. C.R. ENGLAND
2 does not have a policy or practice which provides or records all the legally required
3 unpaid, off-duty meal periods and all the legally required paid, off-duty rest periods
4 to PLAINTIFFS and the other CLASS members. As a result, C.R. ENGLAND's
5 failure to provide PLAINTIFFS and the CLASS members with all the legally
6 required off-duty, unpaid meal periods and all the legally required off-duty, paid rest
7 periods is evidenced by C.R. ENGLAND's business records.

8 54. At all relevant times, California Labor Code §§ 226.7 and 512 and
9 Industrial Welfare Commission Wage Order 9-2001 required C.R. ENGLAND to
10 provide meal periods to PLAINTIFFS and other members of the CLASS.

11 55. Notwithstanding these legal requirements, C.R. ENGLAND failed to
12 authorize and permit meal periods to PLAINTIFFS and other members of the
13 CLASS. C.R. ENGLAND failed to pay premium wages for each workday that C.R.
14 ENGLAND did not authorize and permit meal periods.

15 56. In addition, at all relevant times, California Labor Code § 226.7 and
16 Industrial Welfare Commission Wage Order No. 9-2001, section 12, required C.R.
17 ENGLAND to provide rest periods to PLAINTIFFS and other members of the
18 CLASS at the rate of ten minutes net rest time for each four hours worked, or major
19 fraction thereof. Authorized rest period time is counted as hours worked and must
20 be paid at the regular rate of pay pursuant to California Labor Code § 226.2.

21 57. C.R. ENGLAND was required to pay PLAINTIFFS and other members
22 of the Class with premium pay calculated at the rate of one hour of pay at the
23 regular rate of compensation for each workday that a rest period was not provided.

24 58. Notwithstanding these legal requirements, C.R. ENGLAND failed to
25 authorize and permit rest periods to PLAINTIFFS and other members of the
26 CLASS. C.R. ENGLAND failed to pay premium wages for each workday that C.R.
27 ENGLAND did not authorize and permit rest periods.

28 59. As a result of C.R. ENGLAND's violations alleged herein,

1 PLAINTIFFS and other members of the CLASS are entitled to recover premium
2 wages, including pursuant to Business & Professions Code §§ 17200 et seq. for
3 restitution of all earned but unpaid premium wages, and all statutory and civil
4 penalties under the California Labor Code resulting therefrom.

5 **F. C.R. ENGLAND'S PRACTICES REGARDING RECORDS AND PAY**
6 **STATEMENTS**

7 60. During PLAINTIFFS' and the CLASS members' employment with
8 C.R. ENGLAND, they were also subject to C.R. ENGLAND's uniform policy and
9 practice of failing to provide accurate itemized pay statements setting forth, *inter*
10 *alia*, all hours worked and all applicable rates of pay.

11 61. From time to time, C.R. ENGLAND also fails to maintain copies of
12 accurate itemized wage statements and/or provide PLAINTIFFS and the other
13 members of the CLASS with complete and accurate wage statements which fail to
14 show, among other things, the correct minimum wages for all their time worked,
15 including, allocation of lawfully required, paid, and off-duty rest periods. California
16 Labor Code § 226 provides that every employer shall furnish each of his or her
17 employees with an accurate itemized wage statement in writing showing, among
18 other things, gross wages earned and all applicable hourly rates in effect during the
19 pay period and the corresponding amount of time worked at each hourly rate along
20 with other required information. California Labor Code § 226.2 further imposes
21 additional wage statement requirements on employers who pay in whole or in part
22 using a piece-rate. As a result, C.R. ENGLAND provides PLAINTIFFS and the
23 other members of the CLASS with wage statements which violate California Labor
24 Code §§ 226 and 226.2.

25 62. PLAINTIFFS further allege on information and belief that C.R.
26 ENGLAND has failed to maintain copies of accurate itemized wage statements for
27 employees as required by California law, and from time to time has engaged in
28 unlawful practices that include charging employees costs for copies of personnel

1 records that exceed the costs of reproduction and therefore violate California law,
2 including various provisions of the California Labor Code.

3 63. California Labor Code § 226(a) provides that an employer must furnish
4 employees with an “accurate itemized statement in writing showing the following:

- 5 a. gross wages earned,
- 6 b. total hours worked by the employee, except for any employee whose
7 compensation is solely based on a salary and who is exempt from
8 payment of overtime under subdivision (a) of Section 515 or any
9 applicable order of the Industrial Welfare Commission,
- 10 c. the number of piece-rate units earned and any applicable piece rate if
11 the employee is paid on a piece-rate basis,
- 12 d. all deductions, provided that all deductions made on written orders of
13 the employee may be aggregated and shown as one item,
- 14 e. net wages earned,
- 15 f. the inclusive dates of the period for which the employee is paid,
- 16 g. the name of the employee and his or her social security number, except
17 that by January 1, 2008, only the last four digits of his or her social
18 security number or an employee identification number other than a
19 social security number may be shown on the itemized statement,
- 20 h. the name and address of the legal entity that is the employer, and
- 21 i. all applicable hourly rates in effect during the pay period and the
22 corresponding number of hours worked at each hourly rate by the
23 employee.”

24 64. California Labor Code § 226.2 imposes additional wage statement
25 requirements on employers who pay by the piece, including requiring the wage
26 statement they issue to identify the rest break time, regular rate of pay provided for
27 the rest breaks that were earned, and the amount of rest break pay.

28 65. From time to time, C.R. ENGLAND violates California Labor Code

1 § 226(a) and other provisions of California law (including California Labor Code §
2 226.2) relating to information that must be set forth in wage statements, in that C.R.
3 ENGLAND fails to properly and accurately itemize the gross wages earned, the net
4 wages earned, and all applicable hourly rates in effect during the pay period and the
5 corresponding amount of time worked at each hourly rate by the employee and other
6 requirements. C.R. ENGLAND fails to provide PLAINTIFFS and the other
7 members of the Class with complete and accurate wage statements which fail to
8 show, among other things, the correct minimum wage compensation for time
9 worked, and allocation of lawfully required, paid off-duty rest periods and payment
10 for missed meal periods, etc.. California Labor Code § 226 provides that every
11 employer shall furnish each of his or her employees with an accurate itemized wage
12 statement in writing showing, among other things, gross wages earned and all
13 applicable hourly rates in effect during the pay period and the corresponding amount
14 of time worked at each hourly rate. As a result, C.R. ENGLAND provides
15 PLAINTIFFS and the other members of the CLASS with wage statements which
16 violate California Labor Code § 226 and other sections of the California Labor Code
17 (e.g., California Labor Code § 226.2).

18 66. C.R. ENGLAND knowingly and intentionally fails to comply with
19 California Labor Code §§ 226(a) and 226.2 as well as other applicable sections of
20 the California Labor Code, causing damages to PLAINTIFFS, and the other
21 members of the CLASS. These damages include, but are not limited to, costs
22 expended calculating the true time worked and the amount of employment taxes
23 which were not properly paid to state and federal tax authorities. These damages are
24 difficult to estimate. Therefore, PLAINTIFFS, and the other members of the
25 CLASS may recover a penalty of \$50.00 for the initial pay period in which the
26 violation occurred, and \$100.00 for each violation in subsequent pay period
27 pursuant to Labor Code § 226, in an amount according to proof at the time of trial
28 (but in no event more than \$4,000.00 for PLAINTIFFS and each respective member

1 of the CLASS herein).

2 67. C.R. ENGLAND was required under California law, including but not
3 limited to California Labor Code §§ 226(a),(b) and 1174 and Wage Order 9-2001,
4 section 7, to maintain copies of accurate itemized wage statements showing the
5 items enumerated in Labor Code § 226(a) and other provisions of California law
6 relating to information that must be set forth in wage statements.

7 68. C.R. ENGLAND failed to satisfy its obligations under California law
8 and did not maintain or make available to its employees, copies of accurate itemized
9 wage statements.

10 **G. C.R. ENGLAND’S MISREPRESENTATIONS REGARDING ITS**
11 **TRAINING PROGRAM AND RELATED TERMS AND CONDITIONS**
12 **OF EMPLOYMENT**

13 69. From the time Plaintiff Gradie executed the Employment Contract until
14 his termination by C.R. ENGLAND, Plaintiff performed all material terms of the
15 Employment Contract, even including the requirements to perform uncompensated
16 work and the requirement that he personally pay necessary, work-related expenses.

17 70. C.R. ENGLAND promised according to the terms of the Employment
18 Contract that it would not terminate Plaintiff’s employment except upon a showing
19 of “Due Cause,” defined as a breach of Employment Contract by Plaintiff, a breach
20 of C.R. ENGLAND’s Driving Manual, or a violation of law. However,
21 notwithstanding this promise, C.R. ENGLAND knew at the time it entered into the
22 contract that its true policy was to deem Plaintiff’s employment to be terminable at-
23 will without any requirement of good cause.

24 71. In approximately October of 2015, following an incident in which one
25 of C.R. ENGLAND’s vehicle’s suffered an equipment malfunction due to no fault
26 of Plaintiff, C.R. ENGLAND terminated Plaintiff’s employment without any good
27 faith finding of “Due Cause.”

28 72. Despite the absence of any finding of “Due Cause” for the termination

1 of Plaintiff's employment, C.R. ENGLAND nevertheless deducted \$2,500 in
2 alleged "liquidated damages" from his earned compensation.

3 73. C.R. ENGLAND also advertised throughout California and the nation
4 in order to induce applicants desiring to become truck drivers for it to relocate to
5 Fontana, California (and other locations) in order to enroll in its for-profit, in-house
6 Premier Truck Driving School (i.e., in the Training Program). C.R. ENGLAND
7 induced these applicants by representing that if they would travel to Fontana,
8 California, and enroll in the Training Program they would be provided with a
9 "guaranteed job" as a well-paid, full time truck driver. C.R. ENGLAND charged
10 \$5,175 (or other similar amount consisting of many thousands of dollars) for the 17-
11 day Training Program. The Training Program was a necessary training for the job
12 of the CLASS members. After hire, C.R. ENGLAND required that CLASS
13 members enter into an agreement whereby they pay C.R. ENGLAND a penalty of
14 \$2,500 for terminating employment with C.R. ENGLAND. The penalty would be
15 deducted from compensation of the CLASS members that was earned and unpaid at
16 the time of employment termination. Additionally, C.R. ENGLAND required the
17 CLASS members to agree to pay back the Training Program expenses via a
18 Promissory Note that failed to state the applicable annual percentage rate, was 18%
19 compounded in excess of the California maximum rate, allowed C.R. ENGLAND to
20 make self-help wage deductions, and falsely indicated that the debt would be
21 satisfied if the CLASS member was able to "complete the term of [his or her]
22 employment with C.R. England..."

23 74. At all relevant times, California Labor Code §§ 970 and 972 were in
24 force and effect and applied to C.R. ENGLAND.

25 75. Pursuant to Labor Code § 970, no person may, among other things,
26 directly or indirectly influence, persuade, or engage any person to move from one
27 place or another based on knowingly false representations regarding the nature of
28 available work.

1 76. On information and belief, C.R. ENGLAND caused PLAINTIFFS and
2 other members of the Class, through knowingly false representations concerning
3 C.R. ENGLAND's Training Program located in Fontana, California, including but
4 not limited to guarantees as to continued employment upon successful completion of
5 a training program, to relocate to or to remain in Fontana, California.

6 77. On information and belief, false representations by C.R. ENGLAND to
7 PLAINTIFFS and other members of the CLASS included the following: (a) that
8 actual out-of-pocket costs incurred by C.R. ENGLAND in providing training
9 exceeded \$5,000 (or many thousands of dollars) per student, (b) that upon
10 completion of the Training Program, full-time work for C.R. ENGLAND would be
11 "guaranteed" for a certain period of time, (c) that upon completion of the Training
12 Program, employment by C.R. ENGLAND would be terminable only upon "good
13 cause" rather than at will, and (d) that C.R. ENGLAND would pay the costs of
14 training for PLAINTIFFS and other members of the CLASS and cause a promissory
15 note in the amount of the costs of training executed by PLAINTIFFS and other
16 members of the CLASS to be satisfied and discharged after nine months of
17 employment.

18 78. On information and belief, these and other representations about the
19 Training Program were false.

20 79. On information and belief, C.R. ENGLAND made these
21 representations with knowledge of their falsity.

22 80. On information and belief, absent such false representations concerning
23 C.R. ENGLAND's Training Program located in Fontana, California, PLAINTIFFS
24 and other members of the CLASS would not have moved to Fontana or remained in
25 Fontana for C.R. ENGLAND's Training Program.

26 81. As a result of C.R. ENGLAND's misrepresentations related to the
27 Training Program (including, but not limited to, the misrepresentations violating
28 Labor Code § 970 et seq.), PLAINTIFFS and other members of the CLASS are

1 entitled to recover damages as provided by Labor Code § 972 or allowed by other
2 applicable law, including but not limited to restitution and disgorgement under
3 California Business & Professions Code §§ 17200 et seq. and for recovery of all
4 statutory penalties and civil penalties permitted by law, including, but not limited to,
5 civil penalties under California Labor Code §§ 558, 972, and 2699 *et seq.*

6 **H. C.R. ENGLAND'S PRACTICES REGARDING UNTIMELY**
7 **PAYMENT OF WAGES**

8 82. California law, including Labor Code §§ 201-203, require payment of
9 all earned wages immediately at the time of termination of employment, except
10 upon resignation with less than 72 hours of notice to the employer all earned wages
11 must then be paid within 72 hours of resignation.

12 83. Despite these legal obligations, C.R. ENGLAND failed to pay all
13 earned wages to PLAINTIFFS and other members of the CLASS, either at the time
14 of termination, or within 72 hours of resignation of employment in circumstances
15 when employees communicated their resignation less than 72 hours in advance of
16 the actual time of resignation.

17 84. As a result of C.R. ENGLAND's violations alleged herein,
18 PLAINTIFFS and other members of the CLASS are entitled to recover penalties
19 under Labor Code § 203, to other legal and equitable remedies available under law,
20 and to all statutory and civil penalties resulting therefrom.

21 85. At all relevant times, California Labor Code § 204 was in force and
22 effect and required C.R. ENGLAND to pay to PLAINTIFFS and other members of
23 the CLASS all earned wages at least twice each month on days designated as regular
24 paydays.

25 86. On information and belief, C.R. ENGLAND violated California Labor
26 Code § 204 by failing to pay all earned wages within the time period required by
27 Labor Code § 204.

28 87. PLAINTIFFS and other members of the Class have suffered injury as a

1 result of C.R. ENGLAND's violations of California Labor Code § 204.

2 88. C.R. ENGLAND also did not issue any final pay statement
3 immediately upon PLAINTIFFS' termination (or alternatively within 72 hours of
4 PLAINTIFFS' resignation) as required by California law. Instead, it willfully
5 waited until at least its next regularly scheduled payday to issue their final pay
6 statements. PLAINTIFFS' final pay upon cessation of employment was therefore
7 both untimely calculated as well as never paid in full due to the improper deductions
8 taken by C.R. ENGLAND.

9 89. As a result of C.R. ENGLAND's failure to pay for all hours worked, its
10 methods of calculating compensation due, its deductions from the wages actually
11 earned by PLAINTIFFS and the other CLASS members, and its failure to reimburse
12 necessary employment-related expenses, by PLAINTIFFS and the other CLASS
13 members consistently earned less than the applicable California and federal
14 minimum wage for all hours worked during their employment.

15 **I. C.R. ENGLAND'S UNFAIR COMPETITION**

16 90. In performing the conduct herein alleged, C.R. ENGLAND's wrongful
17 conduct and violations of law as herein alleged demean and wrongfully deprive
18 PLAINTIFFS and the other members of the CLASS of money, wages, career
19 opportunities, and other sums to which they are lawfully entitled. C.R. ENGLAND
20 engages in such wrongful conduct by failing to have adequate employment policies
21 and maintaining adequate employment practices consistent with such policies and
22 the applicable law. C.R. ENGLAND's wrongful conduct as herein alleged caused
23 the money belonging to PLAINTIFFS and the other members of the CLASS to be
24 kept by C.R. ENGLAND and thereby converted by C.R. ENGLAND for C.R.
25 ENGLAND's own use.

26 91. California Business & Professions Code §§ 17200 et seq. defines unfair
27 competition as any unlawful, unfair, or fraudulent business act or practice. Section
28 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to

1 unfair competition as follows:

2 92. Any person who engages, has engaged, or proposes to engage in unfair
3 competition may be enjoined in any court of competent jurisdiction. The court may
4 make such orders or judgments, including the appointment of a receiver, as may be
5 necessary to prevent the use or employment by any person of any practice which
6 constitutes unfair competition, as defined in this chapter, or as may be necessary to
7 restore to any person in interest any money or property, real or personal, which may
8 have been acquired by means of such unfair competition.

9 93. By the conduct alleged herein, C.R. ENGLAND has engaged and
10 continues to engage in a business practice which violates California and federal law,
11 including but not limited to, California Constitution, Article XV, Section 1, and
12 Civil Code §§ 1912, et seq., the applicable Industrial Wage Order (i.e., Wage Order
13 No. 9-2001), the California Code of Regulations, the California Labor Code
14 including, but not limited to, Sections 201, 202, 203, 204, 204.2, 210, 218, 221,
15 222.5, 223, 225.5, 226, 226(a), 226(b), 226(e), 226.2, 226.3, 226.7, 256, 432.5, 450,
16 451(a), 510, 512, 558, 970-972, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
17 1198.5, 2802, 2804 and 2699 of the Labor Code, for which this Court should issue
18 declaratory and other equitable relief pursuant to California Business & Professions
19 Code § 17203 as may be necessary to prevent and remedy the conduct held to
20 constitute unfair competition, including restitution of all wages and other monies
21 wrongfully withheld.

22 94. Accordingly, C.R. ENGLAND committed acts of unfair competition in
23 violation of the California Unfair Competition Law (i.e., California Business &
24 Professions Code §§ 17200, et seq.) by engaging in company-wide policies that
25 violated the California Labor Code and other aspects of California laws as described
26 herein.

J. C.R. ENGLAND’S VIOLATION OF THE CALIFORNIA LABOR CODE PRIVATE ATTORNEY GENERAL ACT (“PAGA”)

95. The California Private Attorneys’ General Act (i.e., California Labor Code §§ 2698 et seq.) is a mechanism by which the State of California itself can enforce state labor and employment laws through the employee suing under the PAGA who do so as the proxy or agent of the state’s labor law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law enforcement action designed to protect the public and not to benefit private parties. The purpose of the PAGA is not to recover damages or restitution, but to create a means of “deputizing” citizens as private attorneys general to enforce the California Labor Code. In enacting PAGA, the California Legislature specified that “it was ... in the public interest to allow aggrieved employees, acting as private attorneys general to recover civil penalties for Labor Code violations ...” Stats. 2003, ch. 906, § 1.

96. PLAINTIFFS bring a PAGA Representative Action on behalf of the State of California with respect to themselves and all individuals who are or previously were employed by C.R. ENGLAND as Truck Drivers employees in California or who enrolled in C.R. ENGLAND’s Training Program (the “Aggrieved Employees”), during the time period from February 1, 2015 to the present.

97. PLAINTIFFS have provided notice of the Labor Code violations alleged herein to the California Labor and Workforce Development Agency (“LWDA”). Following expiration of 33 days, the LWDA declined to exercise its jurisdiction over the present claims for violation of the Labor Code. PLAINTIFFS have thus exhausted the administrative remedies required as a prerequisite for the present private action pursuant to Labor Code §2699.3.

98. The policies, acts and practices heretofore described were and are an violations of the California Labor Code, including, *inter alia*, Labor Code §§ 201, 202, 203, 204, 204.2, 210, 218, 221, 222.5, 223, 225.5, 226, 226(a), 226(b), 226(e),

226.2, 226.3, 226.7, 256, 432.5, 450, 451(a), 510, 512, 558, 970-972, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802, and 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result of such conduct. PLAINTIFFS thus hereby seek recovery of civil penalties as prescribed by the Private Attorneys General Act of 2004 (i.e., PAGA) as the representative of the State of California and the other Aggrieved Employees.

THE CALIFORNIA CLASS

99. PLAINTIFFS bring the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to California Business & Professions Code §§ 17200 *et seq.* (the “UCL”) as a Class Action, pursuant to Federal Rule of Civil Procedure 23, on behalf of themselves and a California class, defined as all individuals who are or previously were employed by DEFENDANT in California as Truck Driver employees at any time during the period beginning on March 12, 2014 and continuing up through the present (i.e., the CLASS or CALIFORNIA CLASS).

100. PLAINTIFFS also bring their Second to Twelfth Causes of Action on behalf themselves and all members of the CALIFORNIA CLASS who are or previously were employed by DEFENDANT in California as Truck Driver employees from March 12, 2014 continuing up through the present.

101. DEFENDANT, as a matter of corporate policy, practice and procedure, and in violation of the applicable California Labor Code sections, Industrial Welfare Commission (“IWC”) Wage Order requirements, and the applicable provisions of California and federal law, intentionally, knowingly, and willfully, engages in a practice whereby DEFENDANT uses an unlawful, unfair and deceptive method to calculate minimum, regular, and overtime wage payments as well as payment for missed meal periods and off-duty rest breaks owed to PLAINTIFFS and the other members of the CALIFORNIA CLASS.

102. DEFENDANT is legally required to comply with all applicable labor laws and regulations with respect to these employees. All CALIFORNIA CLASS

1 members, including PLAINTIFFS, perform the same manual labor and are paid by
2 DEFENDANT according to uniform and systematic company procedures, which, as
3 alleged herein above, fail to correctly pay minimum, regular, and/or overtime wage
4 compensation. This business practice is, upon information and belief, uniformly
5 applied to each and every member of the CALIFORNIA CLASS, and therefore, the
6 propriety of these business practices can be adjudicated on a class-wide basis.

7 103. DEFENDANT uniformly violated the rights of PLAINTIFFS and the
8 CALIFORNIA CLASS members under applicable California law by, among other
9 things, engaging in the following wrongful conduct:

- 10 a. Intentionally, knowingly, and willfully, engaging in a practice
11 whereby DEFENDANT fails to correctly calculate compensation
12 for the time worked by PLAINTIFFS and the other members of
13 the CALIFORNIA CLASS or otherwise comply with California
14 law concerning the CALIFORNIA CLASS, even though
15 DEFENDANT enjoys the benefit of this work, requires
16 employees to perform this work and permits or suffers
17 employees to perform this work; and
- 18 b. Uniformly denying PLAINTIFFS and the members of the
19 CALIFORNIA CLASS the correct minimum, regular, or
20 overtime wages and otherwise violating applicable law,
21 including, but not limited to, by failing to maintain or provide
22 compliant wage statements, failing to provide meal and/or rest
23 periods, failing to record meal periods, failing to reimburse for
24 required business expenses, taking unlawful deductions from
25 wages earned, failing to timely pay all wages owed during an
26 individual's employment and/or upon termination, making
27 various unlawful misrepresentations to induce PLAINTIFFS and
28 the other members of the CALIFORNIA CLASS to enroll in the

Training Program, and charging usurious interest rates.

- c. Uniformly denying the CALIFORNIA CLASS members wage and other compensation or monies to which these employees are entitled in order to unfairly cheat the competition and lawfully profit in violation of California's Unfair Competition Law, i.e., California Business & Professions Code §§ 17200, *et seq.*

104. This Class Action meets the statutory prerequisites for the maintenance of a Class Action as set forth in California Federal Rule of Civil Procedure 23, in that:

- a. PLAINTIFFS are members of the CLASS they seek to represent;
- b. The persons who comprise the CALIFORNIA CLASS are so numerous that the joinder of all CALIFORNIA CLASS members is impracticable and the disposition of their claims as a class will benefit the parties and the Court;
- c. Nearly all factual, legal, statutory, declaratory and injunctive relief issues that are raised in this Complaint are common to PLAINTIFFS and the CALIFORNIA CLASS and will apply uniformly to every member of the CALIFORNIA CLASS. Common questions of law and fact exist as to the claims of the members of the CLASS. Such common questions predominate over the questions, if any, which affect only individual members. Such common questions include, but are not limited to, the following:

- 1) Whether C.R. ENGLAND followed a consistent policy and practice of imposing unlawful wage deductions and payment of expenses by, *inter alia*: requiring CLASS members to pay out of their own pockets for C.R. ENGLAND's own internally-mandated training Program; requiring CLASS members to patronize C.R. ENGLAND's own for-profit training and finance program; and

1 deducting from wages for training costs, alleged “liquidated
2 damages,” usurious interest rates, and other sums supposedly owed
3 to C.R. ENGLAND;

4 2) Whether C.R. ENGLAND failed to pay any wages for the
5 substantial numbers of compensable hours worked by CLASS
6 members completing employer-mandated training programs and
7 waiting for assignments;

8 3) Whether C.R. ENGLAND made false representations to
9 relocating CLASS members that: (a) the actual out-of-pocket cost to
10 C.R. ENGLAND for its training was in excess of the \$5,000
11 charged for attending Premier; (b) full-time work would be
12 “guaranteed” by C.R. ENGLAND for at least the mandated term of
13 employment; (c) that during this “guaranteed” employment period
14 their employment would not be terminable “at will” on the same
15 basis as other C.R. ENGLAND employees, but rather would be
16 terminable only for demonstrated “good cause”; and (d) that C.R.
17 ENGLAND would fully pay the cost of the Training Program and
18 thereby cause the Promissory Note to be satisfied and discharged
19 upon completion of their term of employment.

20 4) Whether C.R. ENGLAND failed to discharge the legal
21 duty to provide off-duty meal and rest periods as required by
22 California law;

23 5) Whether C.R. ENGLAND failed to provide accurate,
24 itemized wage statements to the CLASS;

25 6) Whether C.R. ENGLAND failed to time pay all wages
26 owed to CLASS members during their employment.

27 7) Whether C.R. ENGLAND failed to time pay all wages
28 owed to CLASS members upon termination of their employment;

1 and

2 8) Whether C.R. ENGLAND charged usurious interest rates
3 in excess of 18% to members of the CLASS pursuant to the terms of
4 Promissory Notes which were required to obtain employment with
5 C.R. ENGLAND.

6 d. The claims of the representative PLAINTIFFS are typical of the claims
7 of each member of the CALIFORNIA CLASS. PLAINTIFFS, like all
8 other members of the CALIFORNIA CLASS, have been subjected to
9 DEFENDANT's illegal practice of failing to permit all required meal
10 and rest periods as well as pay minimum, regular, and/or overtime
11 wages for all time worked by PLAINTIFFS and other members of the
12 CALIFORNIA CLASS. PLAINTIFFS, like all other members of the
13 CALIFORNIA CLASS, have also been subjected to other unlawful
14 treatment by DEFENDANT, including, but not limited to, by
15 DEFENDANT failing to maintain or provide compliant wage
16 statements, failing to reimburse for required business expenses, taking
17 unlawful deductions from wages earned, failing to timely pay all wages
18 owed during an individual's employment and/or upon termination,
19 making various unlawful misrepresentations to induce PLAINTIFFS
20 and the other members of the CALIFORNIA CLASS to enroll in the
21 Training Program, and charging usurious interest rates. PLAINTIFFS
22 sustained economic injury as a result of DEFENDANT's employment
23 practices described above. PLAINTIFFS and the members of the
24 CALIFORNIA CLASS were and are similarly or identically harmed by
25 the same unlawful, deceptive, unfair and pervasive pattern of
26 misconduct engaged in by the DEFENDANT; and,

27 e. The representative PLAINTIFFS will fairly and adequately represent
28 and protect the interest of the CALIFORNIA CLASS, and has retained

1 counsel who is competent and experienced in Class Action litigation.
2 PLAINTIFFS are adequate representatives as they have no interests
3 which are adverse to the interests of the CLASS. PLAINTIFFS are
4 committed to the vigorous prosecution of this action and, to that end,
5 have retained counsel who is competent and experienced in handling
6 employment-related class action litigation. There are no material
7 conflicts between the claims of the representative PLAINTIFFS and the
8 members of the CALIFORNIA CLASS that would make class
9 certification inappropriate. Counsel for the CALIFORNIA CLASS
10 will vigorously assert the claims of all CALIFORNIA CLASS
11 members.

12 105. In addition to meeting the necessary prerequisites to a Class Action,
13 this action is properly maintained as a Class Action pursuant to Federal Rule of
14 Civil Procedure 23, in that:

- 15 a. Without class certification and determination of declaratory, injunctive,
16 statutory and other legal questions within the class format, prosecution
17 of separate actions by individual members of the CALIFORNIA
18 CLASS will create the risk of:
- 19 i. Inconsistent or varying adjudications with respect to individual
20 members of the CALIFORNIA CLASS which would establish
21 incompatible standards of conduct for the parties opposing the
22 CALIFORNIA CLASS; and/or,
- 23 ii. Adjudication with respect to individual members of the
24 CALIFORNIA CLASS which would as a practical matter be
25 dispositive of interests of the other members not party to the
26 adjudication or substantially impair or impede their ability to
27 protect their interests.
- 28 b. The parties opposing the CALIFORNIA CLASS have acted or refused

1 to act on grounds generally applicable to the CALIFORNIA CLASS,
2 making appropriate class-wide relief with respect to the CALIFORNIA
3 CLASS as a whole in that the DEFENDANT subjects these individuals
4 to DEFENDANT's systematic practices with respect to non-payment of
5 wages for all time worked and other violations of law as described
6 above;

7 i. With respect to the First Cause of Action, the final relief on
8 behalf of the CALIFORNIA CLASS sought does not relate
9 exclusively to restitution because through this claim
10 PLAINTIFFS seek declaratory relief holding that the
11 DEFENDANT's policies and practices constitute unfair
12 competition, along with declaratory relief, injunctive relief, and
13 incidental equitable relief as may be necessary to prevent and
14 remedy the conduct declared to constitute unfair competition;

15 c. Common questions of law and fact exist as to the members of the
16 CALIFORNIA CLASS, with respect to the practices and violations of
17 law listed above, and predominate over any question affecting only
18 individual CALIFORNIA CLASS members, and a Class Action is
19 superior to other available methods for the fair and efficient
20 adjudication of the controversy, including consideration of:

21 i. The interests of the members of the CALIFORNIA CLASS in
22 individually controlling the prosecution or defense of separate
23 actions;

24 ii. The extent and nature of any litigation concerning the
25 controversy already commenced by or against members of the
26 CALIFORNIA CLASS;

27 iii. The desirability or undesirability of concentrating the litigation
28 of the claims in the particular forum;

1 iv. The difficulties likely to be encountered in the management of a
2 Class Action; and,

3 v. The basis of DEFENDANT's conduct towards PLAINTIFFS and
4 the CALIFORNIA CLASS.

5 106. A class action is superior to other available methods of adjudicating the
6 claims asserted in this action for a number of other reasons as well, including, but
7 not limited to:

8 a. The expense and burden of individual litigation make it economically
9 unfeasible for each member of the CLASS to seek a separate,
10 individual remedy;

11 b. If separate lawsuits were brought individually by each member of the
12 CLASS it would cause undue hardship and expense to the Court and
13 litigants by necessitating multiple trials of similar factual and legal
14 issues;

15 c. The prosecution of separate individual actions would create the risk of
16 inconsistent adjudications of similar factual and legal issues; and

17 d. Absent a class action, there would be a failure of justice, as Defendants
18 would retain the benefit of their illegal conduct and wrongdoing.

19 107. This Court should also permit this action to be maintained as a Class
20 Action pursuant to Federal Rule of Civil Procedure 23 because:

21 a. The questions of law and fact common to the CALIFORNIA CLASS
22 predominate over any question affecting only individual CALIFORNIA
23 CLASS members because the DEFENDANT's employment practices
24 are uniform and systematically applied with respect to the
25 CALIFORNIA CLASS;

26 b. A Class Action is superior to any other available method for the fair
27 and efficient adjudication of the claims of the members of the
28 CALIFORNIA CLASS because in the context of employment litigation

1 a substantial number of individual CALIFORNIA CLASS members
2 will avoid asserting their rights individually out of fear of retaliation or
3 adverse impact on their employment;

4 c. The members of the CALIFORNIA CLASS are so numerous that it is
5 impractical to bring all members of the CALIFORNIA CLASS before
6 the Court;

7 d. PLAINTIFFS, and the other CALIFORNIA CLASS members, will not
8 be able to obtain effective and economic legal redress unless the action
9 is maintained as a Class Action;

10 e. There is a community of interest in obtaining appropriate legal and
11 equitable relief for the acts of unfair competition, statutory violations
12 and other improprieties, and in obtaining adequate compensation for
13 the damages and injuries which DEFENDANT's actions have inflicted
14 upon PLAINTIFFS and the rest of the CALIFORNIA CLASS;

15 f. There is a community of interest in ensuring that the combined assets
16 of DEFENDANT are sufficient to adequately compensate the members
17 of the CALIFORNIA CLASS for the injuries sustained;

18 g. DEFENDANT has acted or refused to act on grounds generally
19 applicable to the CALIFORNIA CLASS, thereby making final class-
20 wide relief appropriate with respect to the CALIFORNIA CLASS as a
21 whole;

22 h. The members of the CALIFORNIA CLASS are readily ascertainable
23 from the business records of DEFENDANT. The CALIFORNIA
24 CLASS consists of all DEFENDANT's current and former Truck
25 Driver employees employed in California from March 12, 2014
26 through the present; and,

27 i. Class treatment provides manageable judicial treatment calculated to
28 bring an efficient and rapid conclusion to all litigation of all wage and

1 hour related claims and other causes of action arising out of the conduct
2 of DEFENDANT as to the members of the CALIFORNIA CLASS.

3 108. DEFENDANT maintains records from which the Court can ascertain
4 and identify by name and job title, each of DEFENDANT's employees who have
5 been systematically, intentionally and uniformly subjected to DEFENDANT's
6 corporate policy, practices and procedures as herein alleged. PLAINTIFFS will
7 seek leave to amend the complaint to include any additional job titles of similarly
8 situated employees when they have been identified.

9 109. PLAINTIFFS reserve the right to amend or modify the scope of the
10 alleged CALIFORNIA CLASS or CLASS description based on newly discovered
11 information or circumstances, including alleging the CLASS definition with greater
12 specificity, by further division into subclasses, or by limitation to one or more
13 particular issues.

14 **THE CALIFORNIA USURY SUBCLASS**

15 110. PLAINTIFFS bring the Thirteenth Cause of Action on behalf of a
16 California subclass, defined as all members of the CALIFORNIA CLASS who
17 enrolled in DEFENDANT's Training Program and entered into promissory notes
18 with DEFENDANT (the "CALIFORNIA USURY SUBCLASS") at any time from
19 February 1, 2015² to the present (the "CALIFORNIA USURY SUBCLASS
20 PERIOD") pursuant to Federal Rule of Civil Procedure 23.

21 111. To the extent equitable tolling operates to toll claims by the
22 CALIFORNIA USURY SUBCLASS against DEFENDANT, the CALIFORNIA
23 USURY SUBCLASS PERIOD should be adjusted accordingly.

24 112. The California Constitution, Article XV, Section 1, and California Civil
25

26 ² This date is one year prior to the filing of the original complaint filed in
27 *Milton Harper et al. v. C.R. England, Inc.*, Case No. 2:16-cv-906-RJS-CMR (D.
28 Utah), which case will be dismissed without prejudice once this First Amended
Complaint is filed in this action.

1 Code §§ 1912 *et seq.*, set the maximum rate of interest at 10% per annum for loans
2 of money used primarily for personal, family, or household purposes, such as loans
3 used to pay for educational and vocational training expenses.

4 113. Notwithstanding these provisions of law, DEFENDANT'S consistent
5 policy and practice was to require interest of 18% or more on the outstanding
6 balances of the Promissory Notes which members of the CALIFORNIA USURY
7 SUBCLASS were required to execute as a condition of C.R. England's Training
8 Program.

9 114. As a result, DEFENDANT has consistently violated the provisions of
10 the California usury law and affected members of the CALIFORNIA USURY
11 SUBCLASS are thereby entitled to seek all authorized remedies, including voiding
12 of the Promissory Notes, forfeiture of all interest charged or purportedly due
13 pursuant to these usurious Promissory Notes, an award of treble damages, and all
14 derivative statutory and civil penalties thereby triggered and authorized by law,
15 including under California Labor Code §§ 201, 203, 204, 204.2, 210, 218, 221,
16 222.5, 223, 225.5, 226(e), 226.3, 256, 432.5, 450, 558, 1197.1, 1198, and 2699 *et*
17 *seq.*

18 115. DEFENDANT charged usury interest rates in excess of 18% to
19 members of the CALIFORNIA USURY SUBCLASS pursuant to the terms of
20 promissory notes which they signed in order to obtain employment with
21 DEFENDANT.

22 116. Common questions of law and fact exist as to members of the
23 CALIFORNIA USURY SUBCLASS, including, but not limited, to the following:

- 24 a. Whether DEFENDANT followed a consistent policy and practice of
25 imposing usurious interest rates; and
- 26 b. DEFENDANT would fully pay the cost of training on behalf of the
27 CALIFORNIA USURY SUBCLASS and thereby cause the promissory
28 note to be satisfied and discharged upon completion of their term of

1 employment.

2 117. DEFENDANT violated provisions of the California usury law by
3 imposing on the CALIFORNIA USURY SUBCLASS an interest rate in excess of
4 10% per annum for loans of money used primarily for personal, family, or
5 household purposes, such as loans used to pay for educational and vocational
6 training expenses.

7 118. This Class Action meets the statutory prerequisites for the maintenance
8 of a Class Action as set forth in Federal Rule of Civil Procedure 23, in that:

- 9 a. The persons who comprise the CALIFORNIA USURY SUBCLASS
10 are so numerous that the joinder of all CALIFORNIA USURY
11 SUBCLASS members is impracticable and the disposition of their
12 claims as a class will benefit the parties and the Court;
- 13 b. Nearly all factual, legal, statutory, declaratory and injunctive relief
14 issues that are raised in the cause of action for usury are common to the
15 CALIFORNIA USURY SUBCLASS and will apply uniformly to every
16 member of the CALIFORNIA USURY SUBCLASS;
- 17 c. The claims of the representative PLAINTIFFS are typical of the claims
18 of each member of the CALIFORNIA USURY SUBCLASS.
19 PLAINTIFF and all other members of the CALIFORNIA USURY
20 SUBCLASS sustained economic injuries arising from DEFENDANT's
21 violations of the usury laws of California.
- 22 d. The representative PLAINTIFFS will fairly and adequately represent
23 and protect the interest of the CALIFORNIA USURY SUBCLASS,
24 and have retained counsel who is competent and experienced in Class
25 Action litigation. There are no material conflicts between the claims of
26 the representative PLAINTIFFS and the members of the
27 CALIFORNIA USURY SUBCLASS that would make class
28 certification inappropriate. Counsel for the CALIFORNIA USURY

1 SUBCLASS will vigorously assert the claims of all CALIFORNIA
2 USURY SUBCLASS members.

3 119. In addition to meeting the statutory prerequisites to a Class Action, this
4 action is properly maintained as a Class Action pursuant to Federal Rule of Civil
5 Procedure 23, in that:

6 a. Without class certification and determination of declaratory, injunctive,
7 statutory and other legal questions within the class format, prosecution
8 of separate actions by individual members of the CALIFORNIA
9 USURY SUBCLASS will create the risk of:

10 i. Inconsistent or varying adjudications with respect to individual
11 members of the CALIFORNIA USURY SUBCLASS which
12 would establish incompatible standards of conduct for the parties
13 opposing the CALIFORNIA USURY SUBCLASS; or,

14 ii. Adjudication with respect to individual members of the
15 CALIFORNIA USURY SUBCLASS which would as a practical
16 matter be dispositive of interests of the other members not party
17 to the adjudication or substantially impair or impede their ability
18 to protect their interests.

19 b. The parties opposing the CALIFORNIA USURY SUBCLASS have
20 acted or refused to act on grounds generally applicable to the
21 CALIFORNIA USURY SUBCLASS, making appropriate class-wide
22 relief with respect to the CALIFORNIA USURY SUBCLASS as a
23 whole in that the DEFENDANT requires the CALIFORNIA USURY
24 SUBCLASS members to pay interest of 18% or more on the
25 outstanding balances of the promissory notes which they signed as a
26 condition of their training and employment.

27 c. Common questions of law and fact exist as to the members of the
28 CALIFORNIA USURY SUBCLASS, with respect to the practices and

violations of California law as listed above, and predominate over any question affecting only individual CALIFORNIA USURY SUBCLASS members, and a Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

- i. The interests of the members of the CALIFORNIA USURY SUBCLASS in individually controlling the prosecution or defense of separate actions;
- ii. The extent and nature of any litigation concerning the controversy already commenced by or against members of the CALIFORNIA USURY SUBCLASS;
- iii. The desirability or undesirability of concentrating the litigation of the claims in the particular forum;
- iv. The difficulties likely to be encountered in the management of a Class Action; and,
- v. The basis of DEFENDANT's conduct towards PLAINTIFFS and the CALIFORNIA USURY SUBCLASS.

120. This Court should permit this action to be maintained as a Class Action pursuant to Federal Rule of Civil Procedure 23 because:

- a. The questions of law and fact common to the CALIFORNIA USURY SUBCLASS predominate over any question affecting only individual members;
- b. A Class Action is superior to any other available method for the fair and efficient adjudication of the claims of the members of the CALIFORNIA USURY SUBCLASS because in the context of employment litigation a substantial number of individual CALIFORNIA USURY SUBCLASS members will avoid asserting their rights individually out of fear of retaliation or adverse impact on

their employment;

- c. The members of the CALIFORNIA USURY SUBCLASS are so numerous that it is impractical to bring all members of the CALIFORNIA USURY SUBCLASS before the Court;
- d. PLAINTIFFS, and the other CALIFORNIA USURY SUBCLASS members, will not be able to obtain effective and economic legal redress unless the action is maintained as a Class Action;
- e. There is a community of interest in obtaining appropriate legal and equitable relief for the acts of unfair competition, statutory violations and other improprieties, and in obtaining adequate compensation for the damages and injuries which DEFENDANT's actions have inflicted upon the CALIFORNIA USURY SUBCLASS;
- f. There is a community of interest in ensuring that the combined assets of DEFENDANT are sufficient to adequately compensate the members of the CALIFORNIA USURY SUBCLASS for the injuries sustained;
- g. DEFENDANT has acted or refused to act on grounds generally applicable to the CALIFORNIA USURY SUBCLASS, thereby making final class-wide relief appropriate with respect to the CALIFORNIA USURY SUBCLASS as a whole;
- h. The members of the CALIFORNIA USURY SUBCLASS are readily ascertainable from the business records of DEFENDANT. The CALIFORNIA USURY SUBCLASS consists of those members of the CALIFORNIA CLASS who were subjected to the DEFENDANT's practices as described above during the CALIFORNIA USURY SUBCLASS PERIOD; and,
- i. Class treatment provides manageable judicial treatment calculated to bring an efficient and rapid conclusion to all litigation of all causes of action arising out of the conduct of DEFENDANT as to the members

1 of the CALIFORNIA USURY SUBCLASS.

2 121. DEFENDANT maintains records from which the Court can ascertain
3 and identify by name and job title, each of DEFENDANT's employees who have
4 been systematically, intentionally and uniformly subjected to DEFENDANT's
5 corporate policy, practices and procedures as herein alleged. PLAINTIFFS will
6 seek leave to amend the complaint to include any additional job titles of similarly
7 situated employees when they have been identified.

8 **THE PAGA CLAIM**

9 122. As their Fourteenth Cause of Action, PLAINTIFFS assert on behalf of
10 themselves and all other Aggrieved Employees a representative action pursuant to
11 the California Labor Code Private Attorneys General Act of 2004 (i.e., California
12 Labor Code §§ 2698 et seq. ("PAGA")). PLAINTIFFS have provided notice of the
13 violations of the Labor Code alleged herein to the Labor Workforce Development
14 Agency as required by law.

15 **FIRST CAUSE OF ACTION**

16 **For Unlawful, Unfair and Deceptive Business Practices**

17 **[Cal. Bus. and Prof. Code §§ 17200 et seq.]**

18 **(By PLAINTIFFS and the CALIFORNIA CLASS Against All Defendants)**

19 123. PLAINTIFFS, and the other members of the CALIFORNIA CLASS,
20 reallege and incorporate by this reference, as though fully set forth herein,
21 paragraphs 1 through 122 of this Complaint.

22 124. DEFENDANT is a "person" as that term is defined under California
23 Business & Professions Code § 17021.

24 125. California Business & Professions Code §§ 17200 et seq. defines unfair
25 competition as any unlawful, unfair, or fraudulent business act or practice. Section
26 17203 authorizes injunctive, declaratory, and/or other equitable relief with respect to
27 unfair competition as follows:

28 Any person who engages, has engaged, or proposes to engage in unfair

1 competition may be enjoined in any court of competent jurisdiction. The court
2 may make such orders or judgments, including the appointment of a receiver,
3 as may be necessary to prevent the use or employment by any person of any
4 practice which constitutes unfair competition, as defined in this chapter, or as
5 may be necessary to restore to any person in interest any money or property,
6 real or personal, which may have been acquired by means of such unfair
7 competition.

8 California Business & Professions Code § 17203.

9 126. By the conduct alleged herein, DEFENDANT has engaged and
10 continues to engage in a business practice which violates California and federal law,
11 including but not limited to, California Constitution, Article XV, Section 1, and
12 Civil Code §§ 1912, *et seq.*, the applicable Industrial Wage Order (i.e., Wage Order
13 No. 9-2001), the California Code of Regulations, the California Labor Code
14 including, but not limited to, Sections 201, 202, 203, 204, 204.2, 210, 218, 221,
15 222.5, 223, 225.5, 226, 226(a), 226(b), 226(e), 226.2, 226.3, 226.7, 256, 432.5, 450,
16 451(a), 510, 512, 558, 970-972, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198,
17 1198.5, 2802, 2804 and 2699 of the California Labor Code, for which this Court
18 should issue declaratory and other equitable relief pursuant to California Business &
19 Professions Code § 17203 as may be necessary to prevent and remedy the conduct
20 held to constitute unfair competition, including restitution of wages wrongfully
21 withheld.

22 127. By the conduct alleged herein, DEFENDANT's practices are unlawful
23 and unfair in that these practices violate public policy, are immoral, unethical,
24 oppressive, unscrupulous or substantially injurious to employees, and were without
25 valid justification or utility for which this Court should issue equitable and
26 injunctive relief pursuant to Section 17203 of the California Business & Professions
27 Code, including restitution of wages and other compensation wrongfully withheld or
28 deducted from PLAINTIFF and the other members of the CALIFORNIA CLASS.

1 128. By the conduct alleged herein, DEFENDANT's practices are deceptive,
2 misleading, and/or fraudulent in that DEFENDANT's policy and practice fails to
3 provide the required amount of compensation for missed meal and rest breaks and
4 fails to adequately compensate PLAINTIFFS and CALIFORNIA CLASS members
5 for all non-productive time, due to a systematic business practice that cannot be
6 justified, pursuant to the applicable California Labor Code sections, Wage Order
7 No. 9-2001, and other Industrial Welfare Commission requirements in violation of
8 California Business and Professions Code §§ 17200 *et seq.*, and for which this Court
9 should issue injunctive and equitable relief, pursuant to California Business &
10 Professions Code § 17203, including restitution of wages wrongfully withheld.

11 129. By the conduct alleged herein, DEFENDANT's practices are also
12 unlawful, unfair and deceptive in that DEFENDANT's employment practices cause
13 PLAINTIFFS and the other members of the CALIFORNIA CLASS to be underpaid
14 during their employment with DEFENDANT as a result of underpaying minimum
15 wages, regular wages, and overtime wages, and as a result of deducting wages,
16 issuing noncompliant wage statements, failing to reimburse for business expenses,
17 making misrepresentations relating to the Training Program in violation of
18 California law, failing to timely pay all wages owed each pay period and/or upon
19 cessation of employment, and charging CALIFORNIA CLASS members with
20 interest rates that exceed lawful rates.

21 130. By the conduct alleged herein, DEFENDANT's practices are unlawful,
22 unfair and deceptive in that DEFENDANT's policies, practices and procedures fail
23 to provide all legally required meal and rest breaks to PLAINTIFFS and the other
24 members of the CALIFORNIA CLASS as required by California Labor Code
25 §§ 226.7 and 512.

26 131. Therefore, PLAINTIFFS demand on behalf of themselves and on
27 behalf of each CALIFORNIA CLASS member, one (1) hour of pay for each
28 workday in which an off-duty meal period was not timely provided for each five (5)

1 hours of work, and/or one (1) hour of pay for each workday in which a second off-
2 duty meal period was not timely provided for each ten (10) hours of work.

3 132. PLAINTIFFS further demand on behalf of themselves and each
4 member of the CALIFORNIA CLASS, one (1) hour of pay for each workday in
5 which a paid rest period was not timely provided as required by law.

6 133. By and through the unlawful and unfair business practices described
7 herein, DEFENDANT has obtained valuable property, money and services from
8 PLAINTIFFS and the other members of the CALIFORNIA CLASS, including
9 earned wages for time worked, and has deprived them of valuable rights and
10 benefits guaranteed by law and contract, all to the detriment of these employees and
11 to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly compete
12 against competitors who comply with the law.

13 134. All the acts described herein as violations of, among other things, the
14 Industrial Welfare Commission Wage Orders, the California Code of Regulations,
15 and the California Labor Code, other state statutes, and federal law, are unlawful
16 and in violation of public policy, are immoral, unethical, oppressive and
17 unscrupulous, are deceptive, and thereby constitute unlawful, unfair and deceptive
18 business practices in violation of California Business & Professions Code §§ 17200
19 *et seq.*

20 135. PLAINTIFFS and the other members of the CALIFORNIA CLASS are
21 entitled to, and do, seek such relief as may be necessary to restore to them the
22 money and property which DEFENDANT has acquired, or of which PLAINTIFFS
23 and the other members of the CALIFORNIA CLASS have been deprived, by means
24 of the above described unlawful and unfair business practices, including, but not
25 limited to, earned but unpaid wages for all time worked, any sums taken as a result
26 of any deceptive, unlawful or fraudulent act related to the Training Program, etc.

27 136. PLAINTIFFS and the other members of the CALIFORNIA CLASS are
28 further entitled to, and do, seek a declaration that the above described business

1 practices are unlawful, unfair and deceptive, and that injunctive relief should be
 2 issued restraining DEFENDANT from engaging in any unlawful and unfair business
 3 practices in the future.

4 137. PLAINTIFFS and the other members of the CALIFORNIA CLASS
 5 have no plain, speedy and/or adequate remedy at law that will end the unlawful and
 6 unfair business practices of DEFENDANT. Further, the practices herein alleged
 7 presently continue to occur unabated. As a result of the unlawful and unfair
 8 business practices described herein, PLAINTIFFS and the other members of the
 9 CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
 10 and economic harm unless DEFENDANT is restrained from continuing to engage in
 11 these unlawful and unfair business practices.

12 **SECOND CAUSE OF ACTION**

13 **For Failure To Pay Minimum Wages**

14 **[Cal. Lab. Code §§ 1194, 1194.2, 1197 and 1197.1 *et seq.*]**

15 **(By PLAINTIFFS and the CALIFORNIA CLASS**

16 **Against All Defendants)**

17 138. PLAINTIFFS, and the other members of the CALIFORNIA CLASS,
 18 reallege and incorporate by this reference, as though fully set forth herein,
 19 paragraphs 1 through 137 of this Complaint.

20 139. PLAINTIFFS and the other members of the CALIFORNIA CLASS
 21 bring a claim for DEFENDANT's willful and intentional violations of the California
 22 Labor Code and the Industrial Welfare Commission requirements (including, but not
 23 limited to, Wage Order No. 9-2001) for DEFENDANT's failure to accurately
 24 calculate and pay minimum wages to PLAINTIFFS and CALIFORNIA CLASS
 25 members.

26 140. Pursuant to California Labor Code § 204, other applicable laws and
 27 regulations, and public policy, an employer must timely pay its employees for all
 28 hours worked.

1 141. California Labor Code § 1197 provides that the minimum wage for
2 employees fixed by the commission is the minimum wage to be paid to employees,
3 and the payment of a less wage than the minimum so fixed is unlawful. The
4 minimum wages fixed by the commission are set forth in the Industrial Welfare
5 Commission General Minimum Wage Order.

6 142. California Labor Code § 1194 establishes an employee's right to
7 recover unpaid wages, including minimum wage compensation and interest thereon,
8 together with the costs of suit. Pursuant to California Labor Code Sections 1182.12,
9 1194, and Wage Order 9-2001, Section 4, an employer is required to pay no less
10 than the mandated minimum wage for each hour of compensable time worked.
11 Compensable time includes all hours during which the employee is performing labor
12 for the benefit of the employer or during which he is subject to the control of the
13 employer.

14 143. Notwithstanding these legal requirements, DEFENDANT failed to pay
15 any wages for substantial numbers of compensable hours worked by PLAINTIFFS
16 and the CALIFORNIA CLASS, including, but not limited to, payment for all miles
17 driven, time spent completing the employer-mandated Training Program, time spent
18 waiting for assignments, and time spent on non-driving activities (e.g., pre and post-
19 trip inspections, fueling, paperwork, etc.).

20 144. DEFENDANT maintains a uniform wage practice of paying the
21 PLAINTIFFS and the other members of the CALIFORNIA CLASS without regard
22 to the correct amount of time they worked, including, but not limited to, time spent
23 completing the employer-mandated Training Program, time spent waiting for
24 assignments, and time spent engaging in non-driving related tasks. As set forth
25 herein, DEFENDANT's uniform policy and practice is to unlawfully and
26 intentionally deny timely payment of wages due to PLAINTIFFS and the other
27 members of the CALIFORNIA CLASS.

28 145. DEFENDANT's uniform pattern of unlawful wage and hour practices

1 manifested, without limitation, applicable to the CALIFORNIA CLASS as a whole,
2 as a result of implementing a uniform policy and practice that denies all required
3 compensation to PLAINTIFFS and the other members of the CALIFORNIA
4 CLASS in regards to minimum wage pay.

5 146. In committing these violations of the California Labor Code and Wage
6 Order No. 9-2001, DEFENDANT inaccurately calculates the correct time worked
7 and consequently underpays the actual time worked by PLAINTIFFS and other
8 members of the CALIFORNIA CLASS. DEFENDANT acts in an illegal attempt to
9 avoid the payment of all earned wages, and other benefits in violation of the
10 California Labor Code, the Industrial Welfare Commission requirements and other
11 applicable laws and regulations.

12 147. As a direct result of DEFENDANT's unlawful wage practices as
13 alleged herein, PLAINTIFFS and the other members of the CALIFORNIA CLASS
14 do not receive the correct minimum wage compensation for their time worked for
15 DEFENDANT.

16 148. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and the
17 other members of the CALIFORNIA CLASS have been paid less for time worked
18 that they are entitled to, constituting a failure to pay all earned wages.

19 149. By virtue of DEFENDANT's unlawful failure to accurately pay all
20 earned compensation to PLAINTIFFS and the other members of the CALIFORNIA
21 CLASS for the true amount of time they work, PLAINTIFFS and the other members
22 of the CALIFORNIA CLASS have suffered and will continue to suffer an economic
23 injury in amounts which are presently unknown to them and which will be
24 ascertained according to proof at trial.

25 150. DEFENDANT knew or should have known that PLAINTIFFS and the
26 other members of the CALIFORNIA CLASS are under-compensated for their time
27 worked. DEFENDANT systematically elected, either through intentional
28 malfeasance or gross nonfeasance, to not pay employees for their labor as a matter

1 of uniform company policy, practice and procedure, and DEFENDANT perpetrated
2 this systematic scheme by refusing to pay PLAINTIFFS and the other members of
3 the CALIFORNIA CLASS the correct minimum wages for their time worked.

4 151. In performing the acts and practices herein alleged in violation of
5 California employment laws, and refusing to compensate the members of the
6 CALIFORNIA CLASS for all time worked and provide them with the requisite
7 compensation, DEFENDANT acted and continues to act intentionally, oppressively,
8 and maliciously toward PLAINTIFFS and the other members of the CALIFORNIA
9 CLASS with a conscious and utter disregard for their legal rights, or the
10 consequences to them, and with the despicable intent of depriving them of their
11 property and legal rights, and otherwise causing them injury in order to increase
12 company profits at the expense of these employees.

13 152. PLAINTIFFS and the other members of the CALIFORNIA CLASS
14 therefore request recovery of all unpaid wages, according to proof, interest, statutory
15 costs, as well as the assessment of any statutory penalties against DEFENDANT, in
16 a sum as provided by the California Labor Code and/or other applicable statutes. To
17 the extent minimum wage compensation is determined to be owed to the
18 CALIFORNIA CLASS members who have terminated their employment,
19 DEFENDANT's conduct also violates California Labor Code §§ 201 and/or 202,
20 and therefore these individuals are also be entitled to waiting time penalties under
21 California Labor Code § 203 as discussed further below, which penalties are sought
22 herein on behalf of these CALIFORNIA CLASS members. DEFENDANT's
23 conduct as alleged herein was willful, intentional and not in good faith. Further,
24 PLAINTIFFS and other CALIFORNIA CLASS members are entitled to seek and
25 recover statutory costs.

26 153. As a result, PLAINTIFFS and the CALIFORNIA CLASS are entitled
27 to damages and restitution under the California Labor Code, as well as California
28 Business & Professions Code §§ 17200, and all other applicable laws for all

1 wrongfully withheld wages and/or illegal deductions; and for recovery of all
 2 derivative statutory and civil penalties thereby triggered and authorized by law,
 3 including under California Labor Code §§ 201, 203, 204, 204.2, 210, 218, 221,
 4 222.5, 223, 225.5, 226(e), 226.3, 256, 432.5, 450, 558, 1194.2, 1197, 1197.1, 1198,
 5 and 2698 et seq.

6 **THIRD CAUSE OF ACTION**

7 **For Failure To Pay Overtime Wages**

8 **[Cal. Lab. Code §§ 510 & 1194 *et seq.*]**

9 **(By PLAINTIFFS and the CALIFORNIA CLASS**

10 **Against All Defendants)**

11 154. PLAINTIFFS, and the other members of the CALIFORNIA CLASS,
 12 reallege and incorporate by this reference, as though fully set forth herein,
 13 paragraphs 1 through 153 of this Complaint.

14 155. PLAINTIFFS and the other members of the CALIFORNIA CLASS
 15 bring a claim for DEFENDANT's willful and intentional violations of the California
 16 Labor Code and the Industrial Welfare Commission requirements for
 17 DEFENDANT's failure to accurately calculate and pay overtime wages to
 18 PLAINTIFFS and CALIFORNIA CLASS members.

19 156. Pursuant to California Labor Code § 204, other applicable laws and
 20 regulations, and public policy, an employer must timely pay its employees for all
 21 hours worked.

22 157. California Labor Code § 1194 establishes an employee's right to
 23 recover unpaid wages, including overtime wage compensation and interest thereon,
 24 together with the costs of suit.

25 158. California Labor Code Sections 510(a), 1194, and Wage Order No. 9-
 26 2001, Section 3, require that an employer must compensate such hours worked at
 27 premium overtime rates to the extent they exceed eight hours in a day or 40 hours in
 28 a week.

1 159. DEFENDANT maintains a uniform wage practice of paying the
2 PLAINTIFFS and the other members of the CALIFORNIA CLASS without regard
3 to the correct amount of time they worked, including time spent engaging in non-
4 driving related tasks. As set forth herein, DEFENDANT's uniform policy and
5 practice is to unlawfully and intentionally deny timely payment of regular and
6 overtime wages due to PLAINTIFFS and the other members of the CALIFORNIA
7 CLASS.

8 160. DEFENDANT's uniform pattern of unlawful wage and hour practices
9 manifested, without limitation, applicable to the CALIFORNIA CLASS as a whole,
10 as a result of implementing a uniform policy and practice that denies accurate
11 compensation to PLAINTIFFS and the other members of the CALIFORNIA
12 CLASS in regards to regular and overtime wages.

13 161. In committing these violations of the California Labor Code and Wage
14 Order No. 9-2001, DEFENDANT inaccurately calculates the correct time worked
15 and consequently underpays the actual time worked by PLAINTIFFS and other
16 members of the CALIFORNIA CLASS. DEFENDANT acts in an illegal attempt to
17 avoid the payment of all earned wages, and other benefits in violation of the
18 California Labor Code, the Industrial Welfare Commission requirements, federal
19 law, and all other applicable laws and regulations.

20 162. As a direct result of DEFENDANT's unlawful wage practices as
21 alleged herein, PLAINTIFFS and the other members of the CALIFORNIA CLASS
22 do not receive the correct regular wages or overtime compensation for their time
23 worked for DEFENDANT.

24 163. During the CALIFORNIA CLASS PERIOD, PLAINTIFFS and the
25 other members of the CALIFORNIA CLASS have been paid less for time worked
26 that they are entitled to, constituting a failure to pay all earned wages.

27 164. By virtue of DEFENDANT's unlawful failure to accurately pay all
28 earned compensation to PLAINTIFFS and the other members of the CALIFORNIA

1 CLASS for the true amount of time they work, PLAINTIFFS and the other members
2 of the CALIFORNIA CLASS have suffered and will continue to suffer an economic
3 injury in amounts which are presently unknown to them and which will be
4 ascertained according to proof at trial.

5 165. DEFENDANT knew or should have known that PLAINTIFFS and the
6 other members of the CALIFORNIA CLASS are under compensated for their time
7 worked. DEFENDANT systematically elected, either through intentional
8 malfeasance or gross nonfeasance, to not pay employees for their labor as a matter
9 of uniform company policy, practice and procedure, and DEFENDANT perpetrated
10 this systematic scheme by refusing to pay PLAINTIFFS and the other members of
11 the CALIFORNIA CLASS the correct regular and/or overtime wages for their time
12 worked.

13 166. In performing the acts and practices herein alleged in violation of
14 California employment laws and other applicable laws, and refusing to compensate
15 the members of the CALIFORNIA CLASS for all time worked and provide them
16 with the requisite compensation, DEFENDANT acted and continues to act
17 intentionally, oppressively, and maliciously toward PLAINTIFFS and the other
18 members of the CALIFORNIA CLASS with a conscious and utter disregard for
19 their legal rights, or the consequences to them, and with the despicable intent of
20 depriving them of their property and legal rights, and otherwise causing them injury
21 in order to increase company profits at the expense of these employees.

22 167. PLAINTIFFS and the other members of the CALIFORNIA CLASS
23 therefore request recovery of all unpaid wages, according to proof, interest, statutory
24 costs, as well as the assessment of any statutory penalties against DEFENDANT, in
25 a sum as provided by the California Labor Code and/or other applicable statutes,
26 wage orders, and regulations. To the extent regular or overtime compensation is
27 determined to be owed to the CALIFORNIA CLASS members who have terminated
28 their employment, DEFENDANT's conduct also violates California Labor Code

1 §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting
 2 time penalties under California Labor Code § 203, which penalties are sought herein
 3 on behalf of these CALIFORNIA CLASS members as described in more detail
 4 below. DEFENDANT's conduct as alleged herein was willful, intentional and not
 5 in good faith. Further, PLAINTIFFS and other CALIFORNIA CLASS members are
 6 entitled to seek and recover statutory costs.

7 168. As a result, PLAINTIFFS and the CALIFORNIA CLASS are entitled
 8 to damages and restitution under the California Labor Code, as well as California
 9 Business & Professions Code §§ 17200, and all other applicable laws for all
 10 wrongfully withheld wages and/or illegal deductions; and for recovery of all
 11 derivative statutory and civil penalties thereby triggered and authorized by law,
 12 including under California Labor Code §§ 201, 203, 204, 204.2, 210, 218, 221,
 13 222.5, 223, 225.5, 226(e), 226.3, 256, 432.5, 450, 558, 1194.2, 1197, 1197.1, 1198,
 14 and 2698 et seq.

15 **FOURTH CAUSE OF ACTION**

16 **For Failure to Provide Accurate Itemized Wage Statements**

17 **[Cal. Lab. Code § 226(a), (b), 226.2, & 1174 et seq., and Wage Order 9-2001,**
 18 **sec. 7]**

19 **(By PLAINTIFFS and the CALIFORNIA CLASS**

20 **Against All Defendants)**

21 169. PLAINTIFFS, and the other members of the CALIFORNIA CLASS,
 22 reallege and incorporate by this reference, as though fully set forth herein,
 23 paragraphs 1 through 168 of this Complaint.

24 170. California Labor Code § 226(a) provides that an employer must furnish
 25 employees with an "accurate itemized statement in writing showing the following:

- 26 1. gross wages earned,
- 27 2. total hours worked by the employee, except for any employee
- 28 whose compensation is solely based on a salary and who is

1 exempt from payment of overtime under subdivision (a) of
 2 Section 515 or any applicable order of the Industrial Welfare
 3 Commission,

- 4 3. the number of piece-rate units earned and any applicable piece
 5 rate if the employee is paid on a piece-rate basis,
- 6 4. all deductions, provided that all deductions made on written
 7 orders of the employee may be aggregated and shown as one
 8 item,
- 9 5. net wages earned,
- 10 6. the inclusive dates of the period for which the employee is paid,
- 11 7. the name of the employee and his or her social security number,
 12 except that by January 1, 2008, only the last four digits of his or
 13 her social security number or an employee identification number
 14 other than a social security number may be shown on the
 15 itemized statement,
- 16 8. the name and address of the legal entity that is the employer, and
- 17 9. all applicable hourly rates in effect during the pay period and the
 18 corresponding number of hours worked at each hourly rate by the
 19 employee.”

20 171. From time to time, DEFENDANT violates California Labor Code
 21 § 226(a) and other provisions of California law (including, but not limited to
 22 California Labor Code § 226.2 and Wage Order No. 9-2001, Section 7) relating to
 23 information that must be set forth in wage statements, in that DEFENDANT fails to
 24 properly and accurately itemize the gross wages earned, the net wages earned, and
 25 all applicable hourly rates in effect during the pay period and the corresponding
 26 amount of time worked at each hourly rate by the employee. DEFENDANT fails to
 27 provide PLAINTIFFS and the other members of the CALIFORNIA CLASS with
 28 complete and accurate wage statements which fail to show, among other things, the

1 correct minimum wage compensation for time worked, and allocation of lawfully
2 required, paid off-duty rest periods and payment for missed meal periods.
3 California Labor Code § 226 provides that every employer shall furnish each of his
4 or her employees with an accurate itemized wage statement in writing showing,
5 among other things, gross wages earned and all applicable hourly rates in effect
6 during the pay period and the corresponding amount of time worked at each hourly
7 rate. As a result, DEFENDANT provides PLAINTIFFS and the other members of
8 the CALIFORNIA CLASS with wage statements which violate California Labor
9 Code § 226 and other sections of the California Labor Code such as California
10 Labor Code § 226.2.

11 172. DEFENDANT knowingly and intentionally fails to comply with
12 California Labor Code § 226(a) and other applicable sections of the California
13 Labor Code (e.g., California Labor Code § 226.2 and Wage Order No. 9-2001,
14 Section 7), causing damages to PLAINTIFFS, and the other members of the
15 CALIFORNIA CLASS. These damages include, but are not limited to, costs
16 expended calculating the true time worked and the amount of employment taxes
17 which were not properly paid to state and federal tax authorities. These damages are
18 difficult to estimate. Therefore, PLAINTIFFS, and the other members of the
19 CALIFORNIA CLASS may recover liquidated damages of \$50.00 for the initial pay
20 period in which the violation occurred, and \$100.00 for each violation in subsequent
21 pay period pursuant to California Labor Code § 226, in an amount according to
22 proof at the time of trial (but in no event more than \$4,000.00 for PLAINTIFFS and
23 each respective member of the CALIFORNIA CLASS herein).

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FIFTH CAUSE OF ACTION

**For Failure to Maintain Copies of Accurate, Itemized Wage Statements
[Cal. Lab. Code § 226(a), (b), 226.2, & 1174 *et seq.*, and Wage Order 9-2001,
sec. 7)**

**(By PLAINTIFFS and the CALIFORNIA CLASS
Against All Defendants)**

173. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 172 of this Complaint.

174. DEFENDANT was required under California law, including but not limited to California Labor Code §§ 226(a),(b), 226.2, and 1174 and Wage Order 9-2001, section 7, to maintain copies of accurate itemized wage statements showing the items enumerated in California Labor Code § 226(a) and other provisions of California law relating to information that must be set forth in wage statements.

175. DEFENDANT failed to satisfy its obligations under California law and did not maintain or make available to its employees copies of accurate itemized wage statements.

176. PLAINTIFFS and other members of the CALIFORNIA CLASS have been injured as a result of DEFENDANT's violations as described above.

177. Wherefore, PLAINTIFFS and the other members of the CALIFORNIA CLASS seek all relief available under the California Labor Code and all other applicable laws for such violations, including damages, statutory penalties, civil penalties, costs and attorney fees.

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SIXTH CAUSE OF ACTION

For Failure to Reimburse for Business Expenses

[Cal. Lab. Code §§ 2802 & 2804 *et seq.*]

(By PLAINTIFFS and the CALIFORNIA CLASS

Against All Defendants)

178. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 177 of this Complaint.

179. Pursuant to California Labor Code §§ 2802 and 2804 *et seq.*, and Wage Order No. 9-2001, an employer must indemnify his or her employee for all necessary expenditures or losses incurred by the employee in direct consequence of the discharge of his or her duties.

180. DEFENDANT violated these requirements by requiring class members to make expenditures required for work and failing to indemnify and reimburse PLAINTIFFS and the other members of the CALIFORNIA CLASS as required by law. DEFENDANT failed and refused to reimburse all necessary business expenses by, inter alia, engaging in the following actions: requiring PLAINTIFFS and CALIFORNIA CLASS members to pay out of their own pockets for the Training Program and other expenses incurred in the course and scope of their employment (e.g., for cell phones and other required business expenses). PLAINTIFFS have thus been damaged in an amount according to proof at time of trial.

181. PLAINTIFFS and the other members of the CALIFORNIA CLASS seek recovery of all required business expenses that they paid, including, but not limited to, any expenses incurred in relation to DEFENDANT's Training Program, for which they were not properly reimbursed, for cell phones, etc.

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SEVENTH CAUSE OF ACTION

For Unlawful Deductions

[Cal. Lab. Code §§ 221, 223, 450(a) *et seq.*]

(By PLAINTIFFS and the CALIFORNIA CLASS

Against All Defendants)

182. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 181 of this Complaint.

183. Pursuant to California Labor Code §§ 221, 223, 451(a), 2802 and 2804, and Wage Order No. 9-2001, an employer may not: deduct from the wages of an employee; require the employee to patronize the employer's services; require employees to pay for amounts incurred in the course and scope of his employment; or shoulder the employer's normal costs and expenses of doing business.

184. DEFENDANT violated these requirements by requiring CLASS members to pay out of their own pockets for DEFENDANT's own mandated Training Program; requiring CLASS members to patronize DEFENDANT's own for profit training and finance programs; requiring CLASS members to incur wage deductions for training costs or other expenses associated with their employment, "liquidated damages," usurious interest, and other sums supposedly owed to DEFENDANT.

185. PLAINTIFFS seek on behalf of themselves and the CALIFORNIA CLASS members the recovery of all allowed damages for all wages that were improperly deducted by DEFENDANT, including, but not limited to, amounts deducted by DEFENDANT in relation to DEFENDANT's Training Program, the costs of the required drug test, physical examination, the cost of obtaining the Commercial Driver's License ("CDL"), and all other costs which were reasonably required by DEFENDANT for PLAINTIFFS and the CALIFORNIA CLASS MEMBERS to comply with the terms of their Employment Contracts.

EIGHTH CAUSE OF ACTION

For Failure to Provide Off-Duty Meal Periods or Pay Meal Period Premiums

[Cal. Lab. Code §§ 226.7 & 512 *et seq.* and Wage Order No. 9-2001]

(By PLAINTIFFS and the CALIFORNIA CLASS

Against All Defendants)

186. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 185 of this Complaint.

187. At all relevant times, California Labor Code §§ 226.7 and 512 and Industrial Welfare Commission Wage Order 9-2001, Section 11 required DEFENDANT to provide meal periods to PLAINTIFFS and other members of the CALIFORNIA CLASS.

188. Specifically, DEFENDANT was required to provide PLAINTIFFS and other members of the CALIFORNIA CLASS for work periods of more than five hours per day with a meal period of not less than 30 minutes during which employees must be fully relieved of all duty. DEFENDANT was required to provide a second meal period when PLAINTIFFS and the CALIFORNIA CLASS members worked more than ten hours in a workday.

189. California Labor Code §§ 226.7 and 512 and Wage 9-2011, section 11(D) require an employer to pay one hour of pay at the employees' regular rate of compensation for each workday that a meal period is not provided.

190. On information and belief, notwithstanding these legal requirements, DEFENDANT failed to authorize and permit meal periods to PLAINTIFFS and other members of the CALIFORNIA CLASS. DEFENDANT failed to pay premium wages for each workday that DEFENDANT did not authorize and permit meal periods.

191. As a result of DEFENDANT's violations alleged herein, PLAINTIFFS and other members of the CALIFORNIA CLASS are entitled to recover premium

1 wages, including pursuant to California Business and Professions Code §§ 17200 et
2 seq. restitution of all earned but unpaid premium wages, and all statutory and civil
3 penalties under the California Labor Code resulting therefrom.

4 **NINTH CAUSE OF ACTION**

5 **For Failure to Provide Off-Duty Rest Periods or Pay Rest Period Premiums**

6 **[Cal. Lab. Code §§ 226.7 *et seq.* and Wage Order 9-2001]**

7 **(By PLAINTIFFS and the CALIFORNIA CLASS**

8 **Against All Defendants)**

9 192. PLAINTIFFS, and the other members of the CALIFORNIA CLASS,
10 reallege and incorporate by this reference, as though fully set forth herein,
11 paragraphs 1 through 191 of this Complaint.

12 193. At all relevant times, California Labor Code § 226.7 and Industrial
13 Welfare Commission Wage Order No. 9-2001, section 12, required DEFENDANT
14 to provide rest periods to PLAINTIFFS and other members of the CALIFORNIA
15 CLASS.

16 194. Specifically, DEFENDANT was required to provide PLAINTIFFS and
17 other members of the proposed class with rest periods at the rate of ten minutes net
18 rest time for each four hours worked, or major fraction thereof. Authorized rest
19 period time is counted as hours worked and must be paid and reflected on wage
20 statements where the employee is paid by the piece.

21 195. DEFENDANT was required to pay PLAINTIFFS and other members
22 of the CALIFORNIA CLASS with premium pay calculated at the rate of one hour
23 of pay at the regular rate of compensation for each workday that a rest period was
24 not provided.

25 196. On information and belief, notwithstanding these legal requirements,
26 DEFENDANT failed to authorize and permit rest periods to PLAINTIFFS and other
27 members of the CALIFORNIA CLASS. DEFENDANT failed to pay premium
28 wages for each workday that DEFENDANT did not authorize and permit rest

1 periods.

2 197. As a result of DEFENDANT's violations alleged herein, PLAINTIFFS
3 and other members of the CALIFORNIA CLASS are entitled to recover premium
4 wages, including pursuant to California Business and Professions Code §§ 17200 et
5 seq. restitution of all earned but unpaid premium wages, and all statutory and civil
6 penalties under the California Labor Code resulting therefrom.

7 **TENTH CAUSE OF ACTION**

8 **For Failure to Timely Pay Wages**

9 **[Cal. Lab. Code §§ 201-203 *et seq.*]**

10 **(By PLAINTIFFS and the CALIFORNIA CLASS**

11 **Against All Defendants)**

12 198. PLAINTIFFS, and the other members of the CALIFORNIA CLASS,
13 reallege and incorporate by this reference, as though fully set forth herein,
14 paragraphs 1 through 197 of this Complaint.

15 199. California law, including Labor Code §§ 201-203, requires payment of
16 all earned wages immediately at the time of termination of employment, except
17 upon resignation with less than 72 hours of notice to the employer all earned wages
18 must then be paid within 72 hours of resignation.

19 200. Despite these legal obligations, DEFENDANT failed to pay all earned
20 wages to PLAINTIFFS and other members of the CALIFORNIA CLASS, either at
21 the time of termination, or within 72 hours of resignation of employment in
22 circumstances when employees communicated their resignation less than 72 hours
23 in advance of the actual time of resignation.

24 201. As a result of DEFENDANT's violations, PLAINTIFFS and other
25 members of the CALIFORNIA CLASS are entitled to recover waiting time
26 penalties pursuant to California Labor Code § 203.

27 202. As a result of DEFENDANT's violations alleged herein, PLAINTIFFS
28 and other members of the CALIFORNIA CLASS are entitled to recover penalties

1 under California Labor Code § 203, to other legal and equitable remedies available
2 under law, and to all statutory and civil penalties resulting therefrom.

3 **ELEVENTH CAUSE OF ACTION**

4 **For Failure to Pay Wages on Regularly Scheduled Paydays**

5 **[Cal. Lab. Code §§ 204 *et seq.*]**

6 **(By PLAINTIFFS and the CALIFORNIA CLASS**

7 **Against All Defendants)**

8 203. PLAINTIFFS, and the other members of the CALIFORNIA CLASS,
9 reallege and incorporate by this reference, as though fully set forth herein,
10 paragraphs 1 through 202 of this Complaint.

11 204. At all relevant times, California Labor Code § 204 was in force and
12 effect and required DEFENDANT to pay to PLAINTIFFS and other members of the
13 proposed CALIFORNIA CLASS all earned wages on the regularly scheduled
14 paydays.

15 205. On information and belief, DEFENDANT violated California Labor
16 Code § 204 by failing to pay all earned wages within the time periods required by
17 California Labor Code § 204.

18 206. PLAINTIFFS and other members of the CALIFORNIA CLASS have
19 suffered injury as a result of DEFENDANT's violations of California Labor Code
20 § 204.

21 207. As a result of DEFENDANT's violations alleged herein, PLAINTIFFS
22 and other members of the CALIFORNIA CLASS are entitled to recover penalties
23 under California Labor Code § 204, to other legal and equitable remedies available
24 under law, and to all statutory and civil penalties resulting therefrom.

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TWELFTH CAUSE OF ACTION

For Misrepresentation

(By PLAINTIFFS and the CALIFORNIA CLASS

Against All Defendants)

208. PLAINTIFFS, and the other members of the CALIFORNIA CLASS, reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 207 of this Complaint.

209. As described herein, DEFENDANT engaged in a number of misrepresentations relating to its Training Program, including misrepresenting and deliberately failing to disclose, among other things, to PLAINTIFFS and the other CALIFORNIA CLASS members the following facts: (1) the amount which C.R. ENGLAND charged for its 17-day Training Program was far above its actual cost for the program; (2) the business objective of the Training Program was not to prepare drivers for long-term employment with C.R. ENGLAND but instead designed and run as an independent profit-making enterprise; (3) C.R. ENGLAND did not intend to treat the applicant's job as "guaranteed" or even terminable only for good cause but rather as terminable at-will; (4) C.R. ENGLAND's for-profit Training Program churned out far more student drivers than it could ever actually employ. As a result, C.R. ENGLAND had to actively find ways to cull the ranks of its drivers and to replace them with more profitable paying applicants; (5) far from having a "guaranteed job," virtually all of the drivers who pay to complete the Training Program were terminated within less than a year; (6) in anticipation of this treatment, upon arriving at Premier, drivers were required to execute a series of unconscionable legal documents, which they had little or no opportunity to read or comprehend (including an illegal agreement to work as an indentured worker who would be obligated to pay C.R. ENGLAND a penalty or "liquidated damages" of approximately \$2,500 as the price of leaving employment with C.R. ENGLAND, an illegal agreement to refrain from working for any competitor of C.R. ENGLAND

1 for a period of at least nine months, an illegal agreement allowing C.R. ENGLAND
2 to accelerate the payment of principal owed for the Training Program and to assess
3 penalties, wage deductions, and usurious interest payments in the event the driver's
4 employment is terminated); (7) drivers would be required to work numerous hours
5 without any compensation or for compensation below the applicable minimum wage
6 rate; etc.

7 210. As a result of these and other misrepresentation and deceptive acts
8 engaged in by C.R. ENGLAND, DEFENDANT violated various California debt
9 collection, consumer protection, and employment laws, including, but not limited to,
10 California Labor Code §§ 970 and 972 that was in force and effect and applied to
11 DEFENDANT.

12 211. Pursuant to California Labor Code § 970, no person may, among other
13 things, directly or indirectly influence, persuade, or engage any person to move from
14 one place or another based on knowingly false representations regarding the nature
15 of available work.

16 212. On information and belief, DEFENDANT caused PLAINTIFFS and
17 other members of the CALIFORNIA CLASS, through knowingly false
18 representations concerning DEFENDANT's Training Program located in Fontana,
19 California, including but not limited to guarantees as to continued employment upon
20 successful completion of a training program, to relocate to or to remain in Fontana,
21 California.

22 213. On information and belief, false representations by DEFENDANT to
23 PLAINTIFFS and other members of the CALIFORNIA CLASS included the
24 following: (a) that actual out-of-pocket costs incurred by DEFENDANT in
25 providing training exceeded \$5,000 per student, (b) that upon completion of the
26 training program, full-time work for DEFENDANT would be "guaranteed" for at
27 least a nine month period, (c) that upon completion of the training program,
28 employment by DEFENDANT during a nine month period would be terminable

1 only upon “good cause” rather than at will, and (d) that DEFENDANT would pay
 2 the costs of training for PLAINTIFFS and other members of the CALIFORNIA
 3 CLASS and cause a promissory note in the amount of the costs of training executed
 4 by PLAINTIFFS and other members of the CALIFORNIA CLASS to be satisfied
 5 and discharged after nine months of employment.

6 214. On information and belief, these representations were false.

7 215. On information and belief, DEFENDANT made these representations
 8 with knowledge of their falsity.

9 216. On information and belief, absent such false representations concerning
 10 DEFENDANT’s Training Program located in Fontana, California, PLAINTIFFS
 11 and other members of the CALIFORNIA CLASS would not have moved to Fontana
 12 or remained in Fontana for DEFENDANT’s Training Program.

13 217. As a result of DEFENDANT’s misrepresentations in violation of
 14 California Labor Code § 970 *et seq.* and other California statutes, PLAINTIFFS and
 15 other members of the CALIFORNIA CLASS are entitled to recover damages as
 16 provided by California Labor Code § 972 or allowed by other applicable law,
 17 including but not limited to restitution and disgorgement under the UCL and for
 18 recovery of all statutory penalties and civil penalties permitted by law, including,
 19 but not limited to, civil penalties under California Labor Code §§ 558, 972, and
 20 2698 *et seq.*

21 **THIRTEENTH CAUSE OF ACTION**

22 **Usury**

23 **(By PLAINTIFFS and the CALIFORNIA USURY SUBCLASS**

24 **Against All Defendants)**

25 218. PLAINTIFFS, and the other members of the CALIFORNIA USURY
 26 SUBCLASS, reallege and incorporate by this reference, as though fully set forth
 27 herein, paragraphs 1 through 217 of this Complaint.

28 219. The California Constitution, Article XV, Section 1, and California Civil

Code §§ 1912 *et seq.*, set the maximum rate of interest at 10% per annum for loans of money used primarily for personal, family, or household purposes, such as loans used to pay for educational and vocational training expenses.

220. Notwithstanding these provisions of law, DEFENDANT's consistent policy and practice was to require PLAINTIFF and the CALIFORNIA USURY SUBCLASS members to pay interest of 18% or more on the outstanding balances of the Promissory Notes which they signed as a condition of their training and employment.

221. As result, DEFENDANT has consistently violated the provisions of the California usury law as to Plaintiff and the California Usury Subclass, who are thereby entitled to seek all authorized remedies, including voiding of the Promissory Notes, forfeiture of all interest charged or purportedly due pursuant to these usurious Promissory Notes, an award of treble damages, and all derivative statutory and civil penalties thereby triggered and authorized by law, including under California Labor Code §§ 201, 203, 204, 204.2, 210, 218, 221, 222.5, 223, 225.5, 226(e), 226.3, 256, 432.5, 450, 558, 1197.1, 1198, and 2698 *et seq.*

FOURTEENTH CAUSE OF ACTION

For Violation of the Private Attorneys General Act ("PAGA")

[Cal. Lab. Code §§ 2698 *et seq.*]

(By PLAINTIFFS and ALL OTHER AGGRIEVED EMPLOYEES

Against All Defendants)

222. PLAINTIFFS, and all other aggrieved employees, reallege and incorporate by this reference, as though fully set forth herein, paragraphs 1 through 221 of this Complaint.

223. A claim under the California Private Attorneys' General Act ("PAGA") is a cause of action by which the State of California itself can enforce state labor laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor law enforcement agencies. An action to recover civil penalties

1 under PAGA is fundamentally a law enforcement action designed to protect the
2 public and not to benefit private parties. The purpose of the PAGA is not to recover
3 damages or restitution, but to create a means of “deputizing” citizens as private
4 attorneys general to enforce the California Labor Code. In enacting PAGA, the
5 California Legislature specified that “it was ... in the public interest to allow
6 aggrieved employees, acting as private attorneys general to recover civil penalties
7 for Labor Code violations ...” Stats. 2003, ch. 906, § 1.

8 224. PLAINTIFFS bring this Representative PAGA Action on behalf of the
9 State of California with respect to themselves and all individuals who are or
10 previously were employed by DEFENDANT as Truck Drivers employees in
11 California during the time period of February 1, 2015 until the present (the
12 “AGGRIEVED EMPLOYEES”).

13 225. In early February 2016, Plaintiff Harper gave written notice by certified
14 mail to the Labor and Workforce Development Agency (the “Agency”) and the
15 employer of the specific provisions of this code alleged to have been violated as
16 required by California Labor Code § 2699.3. See Exhibit C, attached hereto and
17 incorporated by this reference herein. The statutory waiting period for
18 PLAINTIFFS to add these allegations to the Complaint has expired. As a result,
19 pursuant to Section 2699.3, PLAINTIFFS commenced a representative civil action
20 under PAGA pursuant to Section 2698 *et seq.* as the proxy of the State of California
21 with respect to all AGGRIEVED EMPLOYEES as herein defined.

22 226. The policies, acts and practices heretofore described were and are an
23 unlawful business act or practice because DEFENDANT (a) failed to properly
24 record and pay PLAINTIFFS and the other AGGRIEVED EMPLOYEES for all of
25 the hours they worked, including minimum wages, regular wages, and/or overtime
26 hours in violation of California law and the applicable Wage Order, (b) failed to
27 provide accurate itemized wage statements, and (c) failed to timely pay wages, all in
28 violation of the applicable California Labor Code sections listed in California Labor

Code §2699.5, including but not limited to California Labor Code §§ 201, 202, 203, 204, 204.2, 210, 218, 221, 222.5, 223, 225.5, 226, 226(a), 226(b), 226(e), 226.2, 226.3, 226.7, 256, 432.5, 450, 451(a), 510, 512, 558, 970-972, 1182.12, 1174, 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 2802, and 2804, and the applicable Industrial Wage Order(s), and thereby gives rise to statutory penalties as a result of such conduct. PLAINTIFFS hereby seek recovery of civil penalties as prescribed by the California Labor Code Private Attorney General Act of 2004 as the representatives of the State of California for the illegal conduct perpetrated on PLAINTIFFS and the other AGGRIEVED EMPLOYEES.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS pray for judgment against each Defendant, jointly and severally, as follows:

1. On behalf of the CALIFORNIA CLASS:

- A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS as a Class Action pursuant to Federal Rule of Civil Procedure 23;
- B) An order requiring DEFENDANT to correctly calculate and pay all wages, compensation, and all other sums unlawfully withheld from PLAINTIFFS and the other members of the CALIFORNIA CLASS;
- C) Disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFFS and to the other members of the CALIFORNIA CLASS according to proof; and,
- D) An order temporarily, preliminarily and permanently enjoining and restraining DEFENDANT from engaging in similar unlawful conduct as set forth herein.

2. On behalf of the CALIFORNIA CLASS:

- 1 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth
2 Seventh, Eighth, Ninth, Tenth, Eleventh, and Twelfth Causes of
3 Action asserted by the CALIFORNIA CLASS as a class action
4 pursuant to Federal Rule of Civil Procedure 23;
- 5 B) Compensatory damages, statutory penalties, wages, interest, and
6 all other sums owed, according to proof at trial, including
7 compensatory damages and any other sum owed for minimum
8 wage, regular wages, and overtime compensation due
9 PLAINTIFFS and the other members of the CALIFORNIA
10 CLASS, during the applicable CALIFORNIA CLASS PERIOD
11 plus interest thereon at the statutory rate as well as all sums due
12 and owing for missed meal or rest periods, DEFENDANT'S
13 failure to reimburse for required business expenses,
14 DEFENDANT's taking of unlawful deductions from wages
15 earned, DEFENDANT's failure to timely pay all wages owed
16 during employment and/or upon termination, and
17 DEFENDANT's making various unlawful misrepresentations to
18 induce PLAINTIFFS and the other members of the
19 CALIFORNIA CLASS to enroll in the Training Program plus
20 interest thereon at the statutory rate;
- 21 C) The greater of all actual damages or fifty dollars (\$50) for the
22 initial pay period in which a violation occurs and one hundred
23 dollars (\$100) per each member of the CALIFORNIA CLASS
24 for each violation in a subsequent pay period, not exceeding an
25 aggregate penalty of four thousand dollars (\$4,000) for
26 PLAINTIFFS and each respective member of the CALIFORNIA
27 CLASS, and an award of costs for violation of California Labor
28 Code § 226.

1 3. On behalf of the CALIFORNIA USURY SUBCLASS:

- 2 A) That the Court certify the Thirteenth Cause of Action asserted by
3 the CALIFORNIA USURY SUBCLASS as a class action
4 pursuant to Federal Rule of Civil Procedure 23;
5 B) All authorized remedies, including voiding of the Promissory
6 Notes, forfeiture of all interest charged or purportedly due
7 pursuant to these usurious Promissory Notes, an award of treble
8 damages, and all derivative statutory and civil penalties thereby
9 triggered and authorized by law.

10 4. On behalf of the State of California and with respect to PLAINTIFF
11 Harper and all other AGGRIEVED EMPLOYEES:

- 12 A) Recovery of all civil penalties as prescribed by the California
13 Labor Code Private Attorneys General Act of 2004.

14 5. On all claims:

- 15 A) An award of interest, including prejudgment interest at the legal
16 rate;
17 B) Such other and further relief as the Court deems just and
18 equitable or is authorized by California law; and,
19 C) An award of penalties, attorneys' fees and cost of suit, as
20 allowable under the law, including, but not limited to, pursuant
21 to California Labor Code §§ 218.5, 226, and/or 1194.

22
23 Dated: November 25, 2019 THE VAN VLECK LAW FIRM, LLP

24
25 By: /s/ Brian F. Van Vleck

26 Brian F. Van Vleck
27 Attorneys for Plaintiffs
28

DEMAND FOR JURY TRIAL

PLAINTIFFS demand a jury trial on all issues triable to a jury.

Dated: November 25, 2019 THE VAN VLECK LAW FIRM, LLP

By: /s/ Brian F. Van Vleck

Brian F. Van Vleck

Attorneys for Plaintiffs

EXHIBIT A

C.R. ENGLAND, INC.**DRIVER EDUCATION AND EMPLOYMENT CONTRACT**

(California)

This Driver Education and Employment Contract ("Contract") is entered into this 03 day of AUGUST, 2015, (the "Effective Date") in the State of California by and between C.R. England, Inc. ("England"), a Utah corporation located at 4701 West 2100 South, Salt Lake City, Utah 84120 and William Gradle ("you" or "Driver"). In consideration of the parties' respective promises in this Contract and other good and valuable consideration, you and England agree as follows:

1. **EDUCATION AND EMPLOYMENT.** In exchange for your promise to work as a truck driver exclusively for England for nine months as provided in this Contract and your execution of a promissory note for the unsubsidized cost of tuition ("Tuition Note"), England will provide its Premier Truck Driving School Driver Education Program to you on the terms described in the Enrollment Agreement. England also agrees to employ you subject to the terms and conditions stated below.

You will not be employed by England during your Driver Education Program and thus will receive no pay during this period. You will not become an employee of England, and will not receive any pay, until you meet all the conditions listed below.

England agrees to employ you and you agree to be employed by England as a truck driver when you meet all of the following conditions:

- (a) You successfully complete all requirements of England's Premier Truck Driving School Driver Education program;
- (b) You submit a written application to England, in form provided by England, and satisfy England's standard criteria regarding work history, motor vehicle record and criminal background check;
- (c) You pass a Department of Transportation drug test and hair follicle test;
- (d) You submit to, and pass, a medical examination in accordance with regulations issued by the Department of Transportation;
- (e) You successfully complete road and range driving evaluation administered by England;
- (f) You obtain a valid CDL.

You agree to use your best efforts and to work diligently to meet all of these conditions.

2. **DUTIES OF DRIVER.** You agree that at all times during the term of your employment as defined in paragraph 3 below, you shall devote all of your working time to the performance of your duties to England under this Contract. Your duties are to act as a commercial truck driver for England and fulfill all related duties, including all of the requirements and conditions set forth in the England Driver Employee Policy Manual (the "Manual") as amended from time to time. You agree that you will not, directly or indirectly, engage or participate in any activities at any time during the term of this Contract in conflict with your duties under this Contract.

3. **TERM OF EMPLOYMENT.** You agree that, after the conditions stated in paragraph 1 are met, you will work as a truck driver for England for a period of **nine months** after the date you are first dispatched by England, subject to termination by England prior to the end of

the term pursuant to paragraph 4, below. After the nine (9) month term, you or England may terminate your employment at any time and for any reason. You acknowledge that, at great cost, England has provided, or will provide, your driver education, and that England would be damaged by your failure to complete the nine month term of this Contract.

4. **TERMINATION OF EMPLOYMENT.** During the nine (9) month term, your employment may only be terminated for the following reasons: (a) by England for Due Cause, effective immediately; (b) by mutual agreement between you and England; (c) upon your death or upon your developing a disability such that you are no longer able to legally drive; or (d) by England without Due Cause. For the purposes of this Contract, "Due Cause" means (i) your breach of this Contract; (ii) your violation of any of the requirements or conditions set forth in the Manual; or (iii) your violation of or failure to remain in compliance with any federal or state regulations applicable to your position as a driver of commercial motor vehicles in interstate commerce. If you are terminated by England *without Due Cause*, England shall cancel the Tuition Note and, in addition, paragraphs 5 shall not apply.

5. **LIQUIDATED DAMAGES FOR BREACH OF YOUR PROMISE TO WORK FOR ENGLAND.** You agree that if you fail to complete the full nine (9) month term of your employment with England because (a) you quit, or (b) your employment is terminated for Due Cause, then England will suffer damages because of its inability to realize the full benefit of its financial investment in your recruitment, training and employment. You and England agree that it will be difficult to determine the precise amount of the financial harm to England in the event either of these things happens and that the liquidated damages amount provided for in this Contract represent a fair, reasonable and appropriate estimate of this harm. Accordingly, you agree that if you quit or are terminated for Due Cause before you have completed your 9-month commitment, you will be immediately liable to pay to England liquidated damages in the amount of \$2,500.00.

6. **EARLY BUYOUT.** At any time prior to your completion of the full nine (9) month term of your employment with England, you may terminate your employment obligation by 1) paying in full the balance of your Tuition Note, and 2) paying to England \$2500 (the "Buyout Cost"). Your obligations under this Agreement will continue until both the Tuition Note and the Buyout Cost are paid in full. England will not accept installment payments on either the Tuition Note or the Buyout Cost. The Buyout Cost is to compensate England for its substantial investment in your recruiting and training and the return on that investment it would have received if you had completed the entire term of this Agreement.

7. **DRIVER COMPENSATION.** As compensation for the driving services to be rendered by you under this Contract, and as consideration for your promises and covenants herein, England will pay you the wages, benefits and other compensation set forth in the Manual and as stated by England from time to time, and will also provide the Educational Assistance Program described below. Upon the termination of employment, as defined in paragraph 4 of this Contract, you authorize England to deduct and recoup any amount remaining due and owing to England pursuant to paragraph 5 of this Contract from any compensation due and owing to you from England. England may unilaterally change at any time, by written amendment, the terms and conditions of the compensation set forth in the Manual so long as your overall compensation is not materially reduced, and you hereby consent to all such amendments and agrees that such amendments shall be binding upon you.

8. **EDUCATIONAL ASSISTANCE PROGRAM.** When you have completed the nine month term of this Contract, you will automatically become eligible for England's Educational

Assistance Program, which is described in the summary plan description that you may obtain from the England Department of Human Resources. The Educational Assistance Program will pay, on your behalf, any amounts owing on the Tuition Note, up to \$5,200 per calendar year.

9. **ENTIRE AGREEMENT.** This Contract, together with the Enrollment Agreement and the Tuition Note, contains the entire agreement and understanding by and between England and you with respect to the subject matter contained herein and no representations, promises, agreements or understandings, written or oral, concerning this subject matter, shall be of any force or effect. This Contract may not be modified except by a writing signed by both you and England. This Contract shall be binding upon and inure to the benefit of England and you, England's legal representatives, and England's successors and assigns. However, you may not assign your duties under this Contract.

10. **SEVERABILITY.** If one or more of the provisions contained in this Contract is deemed invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the validity and enforceability of the other provisions.

11. **GOVERNING LAW AND VENUE.** You and England agree that this Contract and its construction and interpretation shall be governed by the laws of the State of Utah, and any claim, litigation or dispute arising from or related to this Contract shall be litigated in the appropriate federal or state court located in Salt Lake City, Utah. You hereby consent to personal jurisdiction and venue in such court. Notwithstanding any other provision of this Contract, if you have executed an arbitration agreement with England, the terms of the arbitration agreement shall govern any claims or disputes between you and England arising from or related to this Agreement.

YOU ACKNOWLEDGE THAT YOU HAVE READ THE TERMS OF THIS CONTRACT AND HAVE HAD THE OPPORTUNITY, IF YOU DESIRED, TO CONSULT WITH AN ATTORNEY OF YOUR CHOICE PRIOR TO SIGNING BELOW.

IN WITNESS WHEREOF, C.R. England, Inc. and Driver have duly executed this Contract as of the date, year and place first above written.

C.R. ENGLAND, INC.

By: 

Title: _____

DRIVER,

By: 

Name: William Gradie

Address: 5200 Clark Ave 65

Lakewood CA 90714

Phone: 562-805-0052

Social Security Number: 318646498

Driver ID#: U3030744

Facts about your contract with C.R. England

- The contract is an employment agreement, where you agree to work for C.R. England for at least 9 months.
- In exchange for your employment commitment of at least 9 months, C.R. England agrees to proudly provide you top-notch driving school training, paid on-the-job training, and an Educational Assistance Program which will repay your Tuition Note IN FULL as soon as you have worked 9 Months for C.R. England.
- You are expected to meet your obligation to work for C.R. England for at least 9 months.
- Other carriers, in an attempt to hire you, will tell you many untrue things to make the grass look greener.
- They will tell you that they will pay for your school and that the contract is taken care of if they do. THAT IS NOT TRUE!
- They will tell you that the contract does not matter or that C.R. England cannot enforce it. THAT IS NOT TRUE!
- If you leave before meeting your employment obligation, it is a BREACH OF CONTRACT unless you first pay IN FULL your Tuition Note and the Buyout Cost under the contract. These must be paid IN FULL before you leave. C.R. England will not accept installment payments.
- Due to our significant investment in your training, C.R. England takes any contract breach very seriously. We have been forced to take legal action against several drivers in FEDERAL COURT because they have breached their contract.
- Be sure to keep your word! C.R. England will absolutely keep its word and provide you fantastic training and great driving jobs.
- Be sure to read the agreement closely so you understand its terms.

EXHIBIT B

**PROMISSORY NOTE AND DISCLOSURE STATEMENT****CREDITOR:** CR England dba Premier Truck Driving School

DEBTOR: William	NAME Gradle	ADDRESS 5200 Clark Ave 65	Lakewood	CA 90714
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DEBTOR:	NAME	ADDRESS
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NAME	ADDRESS
-------------	----------------

In this Promissory Note and Disclosure Statement (also called Note) the words I, me, my, mine and us mean each and all of those signing the Note. The words you, your, and yours mean the Creditor identified above. In return for a loan that I have received from you, I promise to pay to your Order at the office in the above city the amount of: U.S. \$ 5,175.00 (the "principal"), according to the Contract terms as set forth below in the Special Regulation Z Disclosures (to the extent applicable) and according to other Note terms as provided below.

Interest: No interest will be charged on his Note unless and until I default. After default, interest will be charged at the rate of 18% per annum on that part of the principal which has not been paid and will be charged beginning on the date of default and continuing until the full amount has been paid.

SPECIAL REGULATION Z DISCLOSURES

ANNUAL PERCENTAGE RATE	FINANCE CHARGE	Amount Financed	Total of Payments
The cost of my credit as a yearly rate	The dollar amount the credit will cost me	The amount of credit provided to me or on my behalf	The amount I will have paid after I have made all payments as scheduled
0 %	0	\$5175	\$5175

MY PAYMENT SCHEDULE WILL BE:

Number of Payments	Amount of Payments	When Payments Are Due
1	\$5175	Upon Termination of Employment with C.R. England, Inc.

PREPAYMENT: If I pay off early, I will not have to pay a penalty.

Information about nonpayment, default, any required repayment in full before the scheduled date, and prepayment refunds and penalties appears in my contract document.

ITEMIZATION OF AMOUNT FINANCED

The Amount Financed of \$5175 is distributed as follows:

Amount paid on my behalf to Premier Truck Driving School for tuition and fees: \$5175

NOTICE. ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

The contract terms on the reverse side of this Note are part of and incorporated into this Note.

EXECUTION/ACKNOWLEDGEMENT OF RECEIPT OF DISCLOSURES

THE UNDERSIGNED ACKNOWLEDGE(S) RECEIPT OF A COMPLETED COPY OF THIS NOTE AND DISCLOSURE CONTAINED HEREIN WHICH DISCLOSURES WERE MADE PRIOR TO SIGNING.

Debtor William Gradle Date: 08-03-2015 Debtor _____ Date: _____

Payments. I have promised to repay this Note as set forth above in the Special Regulation Z Disclosure box. I may repay this Note at any time without penalty.

Employee Educational Assistance Program. I understand that if I complete the term of my Employment Agreement with C.R. England, C.R. England will satisfy this note in its entirety on my behalf.

Estimated Credit Terms. I understand that the interest accrues on the outstanding principal balance on a daily basis. Consequently, the amount you have disclosed for the Finance Charge and the Total of Payments are estimates and the actual amounts paid may increase or decrease based upon my payment habits.

Assignment. I understand that you may sell or assign your interests under this Note, without my consent.

Credit Reporting. I understand that you may report information about this Note, including payment history, late payments and/or defaults, to credit bureaus, and such information may be reflected on credit reports respecting my credit history.

Enrollment Agreement. I am entering into this Note to pay amounts owed to Premier Truck Driving School under a separate Enrollment Agreement for truck driver training ("Enrollment Agreement"). If, under the terms of that Enrollment Agreement, I am entitled to a refund of any amounts paid, any such refund is assigned to you, and shall be applied to the last payments owed by me under this Note.

Events of Default. I will be in default under this Note if I fail either to make a payment on time, or to perform all of my obligations under this Note.

Remedies. Upon the occurrence of any event of default as described above, and at any time thereafter, you may declare the entire balance due and payable at once, without notice or demand.

Right of Offset. If I am in default, I authorize you to exercise immediately your common law right of offset against any monies or credits I might have with you.

No Waiver of Rights. You may accept late or partial payments as well as delay enforcing any of your rights on any occasion, without losing your rights under this Note.

Collection Fees. If I default under this Note, I agree to pay all your collection and legal expenses, including your reasonable attorneys' fees.

Responsibility of Persons Under This Note. If more than one person signs this Note, each of us is fully and personally obligated to pay the full amount owed and to keep all of the promises made in the Note. Any guarantor, surety, or endorser of this Note is also obligated to do these things. You may enforce your rights under this Note against each of us individually or against all of us together, and all of us severally waive presentment for payment, protest, demand, notice of protest, and notice of dishonor.

Governing Law. This Note shall be governed by the law of the State of Utah. This is the entire agreement between you and me. No other agreements or understandings exist outside of this document.

EXHIBIT C

FACSIMILE
(858) 551-1232

BLUMENTHAL, NORDREHAUG & BHOWMIK

2255 CALLE CLARA
LA JOLLA, CALIFORNIA 92037
GENERAL E-MAIL: bam@bamlawlj.com
Web Site: www.bamlawca.com

TELEPHONE
(858) 551-1223

WRITERS E-MAIL:
Nick@bamlawca.com

WRITERS EXT:
5

February 9, 2016
CA1034

VIA CERTIFIED MAIL

Labor and Workforce Development
Agency
Certified Mail # 70142120000378198742
800 Capitol Mall, Suite 5000 MIC-55
Sacramento, CA 95814

C.R. England, Inc.
Certified Mail # 70142120000378198759
CT Corporation System
818 West Seventh Street, Suite 930
Los Angeles, CA90017

Re: Notice Of Violations Of California Labor Code Sections §§ 226(a),
226.7, 512, 1194, 1197, 1197.1, Violation of Applicable Industrial Welfare
Commission Wage Order(s), and Pursuant To California Labor Code Section
2699.5.

Dear Sir/Madam:

Our offices represent Plaintiff Milton Harper ("Plaintiff"), and other aggrieved employees in a lawsuit against C.R. England, Inc. ("Defendant"). Plaintiff has been employed by Defendant in California since December of 2012 as a Truck Driver Employee entitled to the legally required meal and rest breaks and payment for all time worked under Defendant's control. Defendant, however, unlawfully fails to record and pay Plaintiff and other aggrieved employees for all of their time worked and for all of their missed meal and rest breaks. As a consequence of the aforementioned violations, Plaintiff further contends that Defendant fails to provide accurate wage statements to him, and other aggrieved employees, in violation of California Labor Code section 226(a). Said conduct, in addition to the foregoing, violates Labor Code §§ 204, 226(a), 226.7, 512, 1194, 1197, 1197.1, Violation of the applicable Industrial Welfare Commission Wage Order(s), and is therefore actionable under California Labor Code section 2699.3.

A true and correct copy of the Complaint filed by Plaintiff against Defendant, which (i) identifies the alleged violations, (ii) details the facts and theories which support the alleged violations, (iii) details the specific work performed by Plaintiff, (iii) sets forth the people/entities, dates, classifications, violations, events, and actions which are at issue to the extent known to Plaintiff, and (iv) sets forth the illegal practices used by Defendant, is attached hereto. This information provides notice to the Labor and Workforce Development Agency of the facts and theories supporting the alleged violations for the agency's reference. Plaintiff therefore incorporates the allegations of the attached Complaint into this letter as if fully set forth herein. If the agency needs any further information, please do not hesitate to ask.

This notice is provided to enable the Plaintiff to proceed with the Complaint filed in the San Bernardino County Superior Court, Case No. CIVDS1601256, against Defendant as authorized by California Labor Code section 2695, *et seq.* The pending lawsuit consists of other aggrieved employees. As counsel, our intention is to vigorously prosecute the claims as alleged in the complaint, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all aggrieved California employees.

Your earliest response to this notice is appreciated. If you have any questions or concerns, please do not hesitate to contact me at the above number and address.

Respectfully,


/s/ Nicholas J. De Blouw

Nicholas J. De Blouw, Esq.

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<ul style="list-style-type: none"> ■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. ■ Print your name and address on the reverse so that we can return the card to you. ■ Attach this card to the back of the mailpiece, or on the front if space permits. 		<p>1. Article Addressed to: Labor's Workplace Dev. Agency 800 Capitol Mall, Suite HIC-55 Sacramento, CA 95814 CA1034</p>	
<p>2. Article Number (Transfer from) 7014 2120 0003 7819 8742</p>		<p>A. Signature X 800 Capitol Mall Agent Sacramento, CA 95814 Addressee</p> <p>B. Received by (Printed Name)</p> <p>C. Date of Delivery 2-12</p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, July 2013

Domestic Return Receipt

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p>		<p>A. Signature  <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to:</p> <p>C.R. England, Inc. CT Corporation System 818 West Seventh St. Suite 930 Los Angeles, CA 90017</p>		<p>B. Received by (Printed Name) PATRICIA BLANCO</p>	<p>C. Date of Delivery 2/14/16</p>
<p>2. Article Number (Transfer from service if)</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p>	
<p>CA1034</p>		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail® <input type="checkbox"/> Priority Mail Express™ <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> Collect on Delivery</p>	
<p>7014 2120 0003 7819 8759</p>		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	
<p>PS Form 3811, July 2013 Domestic Return Receipt</p>			